

**SESSION LAWS**  
**OF**  
**HAWAII**  
**PASSED BY THE**  
**EIGHTEENTH STATE LEGISLATURE**

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**REGULAR SESSION**  
**1995**

Convened on Wednesday, January 18, 1995  
and  
Adjourned sine die on Monday, May 1, 1995

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**SPECIAL SESSION**  
**1995**

Convened on Monday, June 5, 1995  
and  
Adjourned sine die on Friday, June 9, 1995

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Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

## **AUTHORITY**

**Section 23G-13, Hawaii Revised Statutes, provides as follows:**

**Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

## PREFACE

This volume contains all the laws of the Regular Session and Special Session of 1995. The text of the laws as enacted is followed except for obvious typographical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Wendell K. Kimura  
Revisor of Statutes

Honolulu, Hawaii  
July 1, 1995

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1995**

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**Session Laws of Hawaii  
Passed By The  
Eighteenth State Legislature  
Regular Session  
1995**

**ACT 1**

S.B. NO. 1

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,066,594, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1996, including, but not limited to, the 1995 regular session, Eighteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1995 and 1996 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,975,848, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1996, including, but not limited to, the 1995 regular session, Eighteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1995 and 1996 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1995 and 1996 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1995 and 1996 sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 17, 1996, the Senate and House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 17, 1996.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provisions

## ACT 1

of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$130 a day as authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,787,860, to the office of the legislative auditor for the following expenses: (a) the sum of \$2,019,850, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1995-1996; (b) the sum of \$667,760, or so much thereof as may be necessary for defraying the expenses of the office of the state ethics commission during the fiscal year 1995-1996; and (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1995-1996, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for those studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,196,953, to the legislative reference bureau, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1995-1996, including equipment relating to computer systems programming and operations.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$728,330, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1995-1996.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary, for defraying the expenses of the legislative information system (known as "SHADOW"): (a) \$600,000 to the Senate; and (b) \$600,000 to the House of Representatives. This appropriation shall be utilized to pay for hardware, software, consultant, installation, material, supply, and other related costs associated with the legislative information system which have been or will be incurred. This appropriation shall take effect upon its approval and shall not lapse until June 30, 1996.

SECTION 10. As of the close of business on June 30, 1996, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 11. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 12. This Act shall take effect upon its approval.

(Approved February 1, 1995.)

ACT 2

S.B. NO. 1596

A Bill for an Act Making an Emergency Appropriation for the State Workers' Compensation Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 289, Session Laws of Hawaii 1993, appropriated \$13,968,213 to the department of human resources for paying any claims against the State as required under chapter 386, Hawaii Revised Statutes, for the fiscal period beginning July 1, 1994, and ending June 30, 1995.

A critical funding emergency exists. The state workers' compensation fund will be exhausted by February 26, 1995, and the department will be unable to meet its fiscal obligation to provide for the health and welfare of state employees.

The purpose of this Act is to appropriate moneys to allow the State to meet its fiscal obligations under chapter 386, Hawaii Revised Statutes.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,531,787, or so much thereof as may be necessary for fiscal year 1994-1995, for the payment of claims against the State as required by chapter 386, Hawaii Revised Statutes.

SECTION 4. The sum appropriated shall be expended by the department of human resources development.

SECTION 5. This Act shall take effect upon its approval.

(Approved March 20, 1995.)

ACT 3

S.B. NO. 1682

A Bill for an Act Making Emergency Appropriations for the Payment Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 252, Session Laws of Hawaii 1994, appropriated or authorized specific amounts of funds to the department of human services to provide funds for the payment programs under the family and adult services division for the fiscal period beginning July 1, 1994 and ending June 30, 1995.

A critical funding emergency exists. The payment programs will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide financial assistance to needy individuals and families. The increase in caseload is the primary contributing factor to this financial situation. The general assistance caseload for the first month of fiscal year 1994-1995 increased in excess of eleven per cent over the fiscal year

## ACT 4

1993-1994 average monthly caseload. The aid to families with dependent children caseload for the first month of fiscal year 1994-1995 increased in excess of five per cent over the fiscal year 1993-1994 average monthly caseload.

The purpose of this Act is to appropriate or authorize moneys to prevent the reduction or discontinuance of financial assistance payments to needy individuals and families under the payment programs.

SECTION 3. There are appropriated or authorized out of the funding sources indicated below the following sums, or so much thereof as may be necessary for fiscal year 1994-1995, to be expended for the following programs:

HMS 201, Payments to Assist Families with Dependent Children

General Funds: \$4,060,557

Federal Funds: \$4,060,557

HMS 204, Other General Assistance Payments

General Funds: \$4,690,498

SECTION 4. The sums appropriated or authorized shall be expended by the department of human services for the purposes of this Act. Any unexpended or unencumbered balances of any appropriation made by this Act as of the close of business on June 30, 1995 shall lapse into the appropriate fund.

SECTION 5. This Act shall take effect upon its approval.

(Approved March 20, 1995.)

## ACT 4

S.B. NO. 1690

A Bill for an Act Making Emergency Appropriations for Operating Expenses for the State Medical Assistance Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 252, Session Laws of Hawaii 1994, appropriated a certain designated sum to the department of human services to provide funds for the medical assistance program under the med-QUEST division for the fiscal period beginning July 1, 1994, and ending June 30, 1995.

A critical funding emergency exists. The medical assistance program, also known as the Medicaid program, will expend all appropriated funds before the end of the current fiscal year and the division will be unable to meet its fiscal obligation to provide health and health-related services to Medicaid recipients who are Aged, Blind or Disabled (ABD). Under the current "Fee-For-Service" (FFS) system of reimbursement, the increase in health care costs in Hawaii, the increase in service utilization rate, and the growth in eligible recipients are the primary contributing factors to this financial situation. The extent of the increase in costs was not anticipated and reflects an unusually high escalation over the previous year.

To prevent the reduction or discontinuance of direct medical services for our (ABD) recipients, additional funds are urgently needed.

SECTION 3. There are hereby appropriated or authorized from the sources of funding indicated below the following sums, or so much thereof as may be necessary for fiscal year 1994-1995, and to be used for health care payments to medical providers:

General Funds: \$11,000,000

Other Federal Funds: \$11,000,000

provided that:

- (1) All of the funds appropriated in this Act shall be allotted to the department of human services for the medical assistance program;
- (2) The department of human services' overall budget shall not be restricted in order to generate the additional appropriation.

SECTION 4. The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved March 20, 1995.)

## ACT 5

S.B. NO. 888

A Bill for an Act Relating to the Commission on Sexual Orientation and the Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to form a new commission on sexual orientation and the law.

SECTION 2. Act 217, Session Laws of Hawaii 1994, section 6, is repealed.

["SECTION 6. There is created, effective upon approval of this Act, a commission on sexual orientation and the law. The commission shall consist of eleven members, ten appointed by the governor of the State of Hawaii, of which two shall be representatives from the Hawaii Civil Rights Commission; two shall be representatives from the American Friends Service Committee; two shall be representatives from the Catholic Church diocese; two shall be representatives from the Church of Latter-Day Saints; two shall be representatives from the Hawaii Equal Rights Marriage Project; and an eleventh member, who shall be the chairperson of the family law section of the Hawaii State Bar Association as of January 1, 1994, who shall serve as chairperson of the commission. Should the chairperson of the family law section of the Hawaii State Bar Association decline to serve, the president of the senate and the speaker of the house of representatives shall choose, at their joint discretion, a person with expertise in the law of domestic relations to serve as chairperson of the commission. The members of the commission shall serve without compensation and the commission shall be attached for administrative purposes to the legislative reference bureau, which shall provide staff support to the commission. The purpose of the commission shall be to:

- (1) Examine the precise legal and economic benefits extended to opposite-sex couples, but not to same-sex couples;
- (2) Examine whether substantial public policy reasons exist to extend such benefits to same-sex couples and the reasons therefor; and
- (3) Recommend appropriate action which may be taken by the legislature to extend such benefits to same-sex couples.

## ACT 6

The commission shall submit a report on its findings to the legislature no later than twenty days prior to the convening of the 1995 regular session.”]

SECTION 3. There is created, effective upon approval of this Act, a commission on sexual orientation and the law. The commission shall consist of seven members of the general public, appointed by the governor, of which two shall be appointed from a list of nominees submitted by the speaker of the house of representatives and two shall be appointed from a list of nominees submitted by the president of the senate. The governor shall designate the chair of the commission. The members of the commission shall serve without compensation and the commission shall be attached for administrative purposes to the legislative reference bureau, which shall provide staff support to the commission. The purpose of the commission shall be to:

- (1) Examine the major legal and economic benefits extended to married opposite-sex couples, but not to same-sex couples;
- (2) Examine the substantial public policy reasons to extend or not to extend such benefits in part or in total to same-sex couples; and
- (3) Recommend appropriate action which may be taken by the legislature to extend such benefits to same-sex couples.

The commission shall submit a report of its findings to the legislature no later than twenty days prior to the convening of the 1996 regular session. The commission shall cease to exist after July 1, 1996.”

SECTION 4. Statutory material to be repealed is bracketed.

SECTION 5. This Act shall take effect upon its approval.

(Approved March 24, 1995.)

## ACT 6

H.B. NO. 1971

A Bill for an Act Relating to Adulteration of Drugs and Medical Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 328-14, Hawaii Revised Statutes, is amended to read as follows:

**“§328-14 Drugs or devices deemed adulterated when.** A drug or device shall be deemed to be adulterated:

- (1) (A) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or
- (B) (i) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or
- (ii) If [it is a drug and] the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug or device meets the requirements of this part as to safety and has the identity and strength, and



- meets the quality and purity characteristics[,] which it purports or is represented to possess; or
- (C) If [it is a drug and] its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
  - (D) If:
    - (i) It [is a drug that] bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of the Federal Act; or
    - (ii) It is a color additive, the intended use of which [in or on drugs] is for purposes of coloring only, and is unsafe within the meaning of the Federal Act;
- (2) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in the compendium. Such a determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence of or inadequacy of [such] these tests or methods of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in the compendium, if its difference in strength, quality, or purity from [such] that standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the Homeopathic Pharmacopoeia of the United States and not those of the United States Pharmacopoeia;
- (3) If it is not subject to paragraph (2) [of this section] and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess;
  - (4) If it is a drug and any substance has been (A) mixed or packed therewith so as to reduce its quality or strength; or (B) substituted wholly or in part therefor."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 30, 1995.)

## ACT 7

S.B. NO. 1566

A Bill for an Act Relating to Conformity to the Internal Revenue Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

## ACT 8

**“§235-2.3 Conformance to the federal Internal Revenue Code; general application.**<sup>1</sup> (a) For all taxable years beginning after December 31, [1993,] 1994, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1993,] 1994, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application; provided that section 1202 (with respect to deductions for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be fifty-five per cent of the net capital gain.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved March 30, 1995.)

### Note

1. So in original.

## ACT 8

S.B. NO. 1692

A Bill for an Act Relating to the Members of the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The authority shall consist of eight members of whom six shall be public members appointed by the governor as provided in section 26-34. Not more than three of the public members shall be members of the same political party. Two of the public members shall be appointed at large; the remaining public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. The director of human services and the special assistant for housing or their respective designees shall be ex officio voting members.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 30, 1995.)

ACT 9

S.B. NO. 1594

A Bill for an Act Making an Emergency Appropriation for Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 289, Session Laws of Hawaii 1993, as amended by Act 252, Session Laws of Hawaii 1994, appropriated a certain designated sum to the department of public safety to provide funds for the operations of its programs for the fiscal period beginning July 1, 1994, and ending June 30, 1995.

A critical funding emergency exists. The various programs will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide for the health and safety of the public, staff, and clients. The increase in overtime payments is the primary contributing factor to this financial situation.

The purpose of this Act is to appropriate moneys to prevent the shutdown of activities at our correctional facilities and the possible filing of lawsuits.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,200,507, or so much thereof as may be necessary for fiscal year 1994-1995, for the various programs of the department of public safety.

SECTION 4. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 5, 1995.)

ACT 10

S.B. NO. 1680

A Bill for an Act Making an Emergency Appropriation for Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 289, Session Laws of Hawaii 1993, as amended by Act 252, Session Laws of Hawaii 1994, appropriated a certain designated sum to the department of health to provide funds for the child and adolescent mental health program for the fiscal period beginning July 1, 1994, and ending June 30, 1995.

A critical funding emergency exists. The program will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide services to severely emotionally disturbed children. The increase in case referrals and court-directed placements is the primary contributing factor to this financial situation.

## ACT 11

The purpose of this Act is to appropriate or authorize moneys to prevent the reduction or discontinuance of payments for services to seriously emotionally disturbed youth.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,229,727, or so much thereof as may be necessary for fiscal year 1994-1995, to be used for services provided to the child and adolescent mental health program.

SECTION 4. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 5, 1995.)

## ACT 11

H.B. NO. 1221

A Bill for an Act Relating to Statutory Revision: Amending, Reenacting, or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of [[ ] the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, [ ] ] a permit to acquire the ownership of a firearm as prescribed in this section; provided that when title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of a firearm.”

SECTION 2. Section 155-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a special fund to be known as the agriculture loan revolving fund, from which moneys shall be loaned by the department of agriculture under this chapter. The department, by its board of agriculture, may transfer moneys from the agriculture loan revolving fund to [the agricultural products revolving fund or] the aquaculture loan revolving fund, from which moneys shall be disbursed by the department pursuant to [chapters 153 and] chapter 219, [respectively,] and may transfer moneys from [those] that revolving [funds] fund to the agriculture loan revolving fund for disbursement pursuant to this chapter; provided that:

- (1) The amount of moneys transferred shall not exceed \$1,000,000 for each revolving fund within the calendar year;

- (2) Twenty days prior to the convening of each regular session of the legislature, the department shall report to the legislature all transfers that were made [among] between the agriculture loan revolving fund[, the agricultural products revolving fund,] and the aquaculture loan revolving fund during the preceding calendar year and the balance of each revolving fund as of December 31 of each year; and
- (3) This authority to transfer moneys shall expire on June 16, 1995."

SECTION 3. Section 171-58.5, Hawaii Revised Statutes, is amended to read as follows:

**"§171-58.5 Prohibitions.** The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline is prohibited with the following exceptions:

- (1) The taking from seaward of the shoreline of such materials, not in excess of one gallon per person per day for reasonable, personal, noncommercial use;
- (2) For the replenishment or protection of public shoreline areas and adjacent public lands seaward of the shoreline, or construction or maintenance of state approved lagoons, harbors, launching ramps or navigational channels with a permit authorized under [section 183-41;] chapter 183C;
- (3) The clearing of such materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless this placement would result in significant turbidity; or
- (4) The cleaning of areas seaward of the shoreline for state or county maintenance purposes including the purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless such placement would result in significant turbidity."

SECTION 4. Section 183-42, Hawaii Revised Statutes, is amended to read as follows:

**"§183-42 Strip mining; prior approval of license or permit.** No original permit or license for strip mining on land within the forest reserve boundaries shall be issued by any officer or agency of the State without the prior approval and concurrence of the department. In determining whether to grant or withhold such approval, the department shall be guided by the standards set forth in [section 183-41.] chapter 183C."

SECTION 5. Section 183-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** The board of land and natural resources shall adopt rules concerning the application and issuance of permits for the repair, strengthening, reinforcement, and maintenance of fishponds pursuant to [section 183-41.] chapter 183C. The rules shall specify the extent:

- (1) Of repairs, strengthening, reinforcement, and maintenance for which no permit is necessary, but for which the owner shall be required to notify the board in writing of the owner's intent to perform them which notification shall be submitted not less than ten days before performing the repairs, strengthening, reinforcement, or maintenance, and for

- which receipt and lack of action by the board within the ten-day notice period shall constitute approval;
- (2) Of repairs, strengthening, reinforcement, and maintenance for which a permit shall be required which shall be requested in writing by the owner.”

SECTION 6. Section 183-45, Hawaii Revised Statutes, is amended to read as follows:

“**§183-45 Accreted land.** No structure, retaining wall, dredging, grading, or other use which interferes or may interfere with the future natural course of the beach, including further accretion or erosion, shall be permitted on accreted land as judicially decreed under section 501-33 or 669-1(e). This [provision] section shall not in any way be construed to affect state or county property.

Any structure or action in violation of this [provision] section shall be immediately removed or stopped and the property owner shall be fined in accordance with section [183-41(e).] 183C-7. Any action taken to impose or collect the penalty provided for in this [subsection] section shall be considered a civil action.”

SECTION 7. Section 188-68, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The intentional taking, breaking, or damaging with crowbar, chisel, or any other implement of any rock or coral to which marine life is visibly attached or affixed, or live stony coral of the taxonomic order, Madreporaria, including the Fungidae or Pocilloporidae families, is prohibited except with a permit authorized under section 187A-6 or [section 183-41] chapter 183C or by the department under rules adopted pursuant to chapter 91 necessary for collecting marine life visibly attached to rocks placed in the water for a commercial purpose.”

SECTION 8. Section 190D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall process the conservation district use application pursuant to [section 183-41] chapter 183C and rules adopted under this chapter. Within sixty days after the submission of a conservation district use application with a request for a lease for marine activities in state marine waters or submerged lands and the receipt of the related environmental assessment or environmental impact statement, the department shall issue a public notice that the application has been received. The public notice shall describe the marine waters or submerged lands, or both, for which application has been made, the nature of the exclusive use sought, and the purpose for which the application has been made. The notice shall be published on three separate days in a newspaper of general distribution in the State and in the county nearest the marine waters or submerged lands for which application has been made. The public notice shall invite public comment.”

SECTION 9. Section 195F-2, Hawaii Revised Statutes, is amended by amending the definition of “potential natural area reserve” to read as follows:

““Potential natural area reserve” means land or water areas within the protective subzone of the conservation district established pursuant to [section 183-41,] chapter 183C, intact native natural communities identified by the heritage program under chapter 195, and other lands or waters meeting criteria established by the natural area reserves system commission.”

SECTION 10. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board’s assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area’s potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies of the county in which the area is located;
- (6) The potential economic benefits to be derived from geothermal development and potential related industries; and
- (7) The compatibility of geothermal development and potential related industries with the uses permitted under [sections 183-41] chapter 183C and section 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies, and guidelines set forth in part I of chapter 205A, and [the provisions of] chapter 226.”

SECTION 11. Section 205-15, Hawaii Revised Statutes, is amended to read as follows:

“**§205-15 Conflict.** Except as specifically provided by this chapter and the [regulations] rules adopted thereto, neither the authority for the administration of [the provisions of section 183-41] chapter 183C nor the authority vested in the counties under [the provisions of] section 46-4 shall be affected.”

SECTION 12. Section 205A-41, Hawaii Revised Statutes, is amended by amending the definition of “board approval” to read as follows:

““Board approval” means approval by the board of land and natural resources pursuant to [section 183-41.] chapter 183C.”

SECTION 13. Section 205A-43.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authority of the board of land and natural resources to determine the shoreline and enforce rules established under [section 183-41] chapter 183C shall not be diminished by [a manmade] an artificial structure in violation of this part.”

SECTION 14. Section 219-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund to be known as the aquaculture loan revolving fund from which moneys shall be loaned by the department of agriculture under this chapter. The department, by its board of agriculture, may transfer moneys from the aquaculture loan revolving fund to [the agricultural products revolving fund or] the agriculture loan revolving fund, from which moneys shall be disbursed by the department pursuant to [chapters 153 and] chapter 155, [respectively,] and may

transfer moneys from [those] that revolving [funds] fund to the aquaculture loan revolving fund for disbursement pursuant to this chapter; provided that:

- (1) The amount of moneys transferred shall not exceed \$1,000,000 for each revolving fund within the calendar year;
- (2) Twenty days prior to the convening of each regular session of the legislature, the department shall report to the legislature all transfers that were made [among] between the aquaculture loan revolving fund[, the agricultural products revolving fund,] and the agriculture loan revolving fund during the preceding calendar year and the balance of each revolving fund as of December 31 of each year; and
- (3) This authority to transfer moneys shall expire on June 16, 1995.”

SECTION 15. Section 220-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of land and natural resources shall adopt rules for review of applications, and issuance of permits for aquaculture farms, pursuant to [section 183-41.] chapter 183C. The rules shall specify permitted uses; provided that all uses endorsed by the board of agriculture pursuant to chapter 219 shall be permitted uses; uses for which an environmental impact statement shall be necessary, pursuant to chapter 343, as well as those actions of repair and maintenance which shall not be subject to the permit and environmental impact statement provisions, including but not limited to emergency repairs.”

SECTION 16. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

“**§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means employees directly engaged in the day to day operation of the hotel and employed by the operator.

“Hotel” means an operation licensed under section 445-92.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

“Owner” means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;



- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the day to day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property; and

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities.
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2.”

SECTION 17. Section 323-74, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There are established three collections revolving funds, one fund for Maui Memorial Hospital, one fund for Hilo [Hospital,] Medical Center, and one fund for Kona Community Hospital, to expedite the collection of patient bills and the refunding of credit balances. Payments of bills of less than \$1,000, from patients and health insurance providers, shall be deposited into the revolving fund. Expenditures

## ACT 11

from the revolving fund shall be used for the purpose of making refunds of credit balances of less than \$1,000.”

SECTION 18. Section 421H-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) At the request of any party, any dispute concerning or involving one or more stockholders and a limited-equity housing corporation, its board of directors, managing agent, or one or more other stockholders relating to the interpretation, application or enforcement of this chapter or the corporation’s charter of incorporation, bylaws, or administrative rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the real estate commission and the provisions of chapter 658; provided that the [Horizontal] Condominium Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658, chapter 658 shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties; provided further that the proceedings shall be concluded ninety days after the commencement of the arbitration unless extended by mutual consent of the parties involved and their counsel. The arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.”

SECTION 19. Section 514A-121, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) At the request of any party, any dispute concerning or involving one or more apartment owners and an association of apartment owners, its board of directors, managing agent, or one or more other apartment owners relating to the interpretation, application or enforcement of chapter 514A or the association’s declaration, bylaws, or house rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the commission and the provisions of chapter 658; provided that the [Horizontal] Condominium Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658, chapter 658 shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties. The arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.”

SECTION 20. Act 238, Session Laws of Hawaii 1993, is amended by amending the prefatory language in section 1 to read as follows:

“SECTION 1. Section 31 of Act 2, First Special Session Laws of Hawaii 1986, as amended by section 2 of Act 300, Session Laws of Hawaii 1989, as amended by section 1 of Act 62, Session Laws of Hawaii 1991, is amended to read as follows:”

SECTION 21. Act 281, Session Laws of Hawaii 1994, is amended by amending section 12 to read as follows:

- “SECTION 12. This Act shall take effect upon its approval; provided that:
- (1) Sections 1, 2, and 3 shall be repealed two years after the approval of this Act; [and]
  - (2) On the repeal of [Sections] sections 1, 2, and 3 of this Act, [Sections] sections 37-32 and 37-41, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act[.];  
and
  - (3) Section 4 of this Act shall take effect on June 29, 1994.”

SECTION 22. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1995, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 23. Statutory material to be repealed is bracketed. New statutory material is underscored.

- SECTION 24. This Act shall take effect upon its approval; provided that:
- (1) The amendment to section 237-24.7(5), Hawaii Revised Statutes, in section 16 of this Act shall take effect retroactive to July 1, 1993, or the effective date of reimbursement changes referred to in section 346E-14, Hawaii Revised Statutes, whichever is later;
  - (2) The amendment to section 237-24.7(6), Hawaii Revised Statutes, in section 16 of this Act shall take effect retroactive to May 1, 1993, and shall be applied retroactively to September 11, 1992;
  - (3) Section 20 of this Act shall take effect retroactive to June 18, 1993; and
  - (4) Section 21 of this Act shall take effect retroactive to June 29, 1994.

(Approved April 7, 1995.)

## ACT 12

H.B. NO. 1581

A Bill for an Act Relating to Adult and Community Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 301-1, Hawaii Revised Statutes, is amended to read as follows:

“**§301-1 Adult and community education authorized.** To provide increased opportunity for the people of Hawaii, the department of education shall establish and regulate a program of adult and community education of less than college grade [to be conducted, wherever feasible, in]. The department of education

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shall provide public school buildings[,] and other facilities, and [to] use public school equipment under conditions determined by the department, when such equipment is needed[.], for adult and community education programs."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 7, 1995.)

## ACT 13

H.B. NO. 1863

A Bill for an Act Relating to Public Agency Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that, during each month, a number of notices of public agency meetings are filed late under the Hawaii Sunshine Law, part I of chapter 92, Hawaii Revised Statutes. Section 92-7, Hawaii Revised Statutes, provides that a "board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least six calendar days before the meeting." Emergency meetings are exempt under section 92-8, Hawaii Revised Statutes, when "an imminent peril to the public health, safety, or welfare requires a meeting in less time than" the six calendar days. When a notice, other than a notice for an emergency meeting, is filed late, the meeting must be rescheduled. However, section 92-7 does not expressly provide for notification of a tardy filing of a public agency meeting notice. Consequently, boards may hold meetings which cannot be held under the Sunshine Law.

The purpose of this Act is to ensure that meetings are not held without proper notice.

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended to read as follows:

**"§92-7 Notice.** (a) The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated.

(b) The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible.

(c) If the written public notice is filed in the office of the lieutenant governor or the appropriate county clerk's office less than six calendar days before the meeting, the lieutenant governor or the appropriate county clerk shall immediately notify the chairperson of the board, or the director of the department within which the board is established or placed, of the tardy filing of the meeting notice. The meeting shall be canceled as a matter of law, the chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting, and no meeting shall be held.

(d) No board shall change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

[(c)] (e) The board shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than the time the agenda is filed under subsection (b)."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved April 7, 1995.)

## ACT 14

S.B. NO. 1578

A Bill for an Act Relating to Fees Imposed by the Department of Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§231- Cost recovery fees for the administration of taxes.** (a) The department may charge and add a fee to any amount due in accordance with the department’s duties and powers under section 231-3 for any cost or expense incurred by the department as a result of any action taken to enforce the collection of taxes administered under title 14, including levy, seizure, foreclosure, and other similar acts, after the department has mailed written notice demanding payment and advising that continued failure to pay the amount due may result in collection action, including the imposition of fees pursuant to this section. Any such fee charged against the taxpayer for costs, fees, and other charges, may include attorneys’ fees, collection agency fees, court filing fees, recording fees, and similar fees, incurred by the department in connection with the collection action.

(b) Interest shall not accrue with respect to any fee charged under this section.

(c) Notwithstanding any other provisions provided under title 14, whenever a taxpayer makes a partial payment of a particular delinquent amount, the amount received by the department shall first be credited to the fees provided by this section, in the order that the fees were charged.

(d) The department shall prescribe the procedures relating to the charging of fees, the documents and services for which fees may be charged, and the amount of the fees, increasing or decreasing the fees as necessary, pursuant to rules adopted under chapter 91.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon approval.

(Approved April 7, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 15

S.B. NO. 1155

A Bill for an Act Relating to Business Development Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 420-1, Hawaii Revised Statutes, is amended by amending the definition of "Pacific Islands" to read as follows:

""Pacific Islands": The State of Hawaii, American Samoa, Guam, [and the Trust Territories of the Pacific, either collectively or individually.] the Cook Islands, Easter Island, the Federated States of Micronesia, Fiji, Kiribati, the Marshall Islands, Nauru, New Caledonia, Niue, the Northern Mariana Islands, Belau (Palau), Papua New Guinea, Pitcairn Island, the Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna, French Polynesia, and Western Samoa."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 11, 1995.)

ACT 16

S.B. NO. 161

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) This chapter shall apply to every expenditure of public funds irrespective of their source by a governmental body as defined herein, under any contract; provided that the expenditure of federal assistance moneys shall be in accordance with federal requirements. This chapter shall not apply to:

- (1) Grants, subsidies, or purchases of service made pursuant to chapter 42D;
- (2) Employment agreements or collective bargaining agreements;
- (3) The purchase of goods, services, or construction from any other governmental body, other state governments, or the federal government, other than the University of Hawaii bookstores;
- (4) Permanent settlements, subsidies, or other claims that must be paid by law;
- (5) Contracts for expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
- (6) Works of art for museum and public display;
- (7) Published books, maps, periodicals, and technical pamphlets;

- (8) Meats and foodstuffs for the Kalaupapa settlement; [and]
- (9) Goods purchased by the State for commercial resale to the public[.] and
- (10) Travel arrangements purchased by the University of Hawaii for its intercollegiate athletic programs.

Nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 17, 1995.)

## ACT 17

S.B. NO. 928

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-405, Hawaii Revised Statutes, is amended to read as follows:

**“§412:9-405 Loans and extensions of credit fully secured by real property.** (a) For loans and extensions of credit fully secured by real property other than unimproved raw land, a depository financial services loan company may advance, directly or indirectly, up to and including ninety-five per cent of the appraised value or real property evaluation required under the Federal Deposit Insurance Act and the rules and regulations of the Federal Deposit Insurance Corporation of the real property securing the loan and extension of credit. The principal amount of the loan and extension of credit shall be added together with the outstanding balances of all prior liens on the real property to determine the ninety-five per cent loan to value ratio.

(b) For loans and extensions of credit fully secured by mortgages on unimproved raw land, the maximum loan-to-value ratio shall not exceed seventy per cent of the appraised value or real property evaluation required under the Federal Deposit Insurance Act and the rules and regulations of the Federal Deposit Insurance Corporation of the unimproved raw land. Parcels of land with direct access by road and served by electric power shall not be deemed unimproved raw land.

(c) Notwithstanding the provisions of subsections (a) and (b), depository financial services loan companies, which make loans fully secured by real property in excess of twenty per cent of their capital and surplus, shall obtain appraisals of the real property securing those loans.”

SECTION 2. Section 412:9-406, Hawaii Revised Statutes, is repealed.

SECTION 2.<sup>1</sup> Statutory material to be repealed is bracketed.<sup>2</sup> New statutory material is underscored.

SECTION 3.<sup>1</sup> This Act shall take effect upon its approval.

(Approved April 17, 1995.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 18

S.B. NO. 75

A Bill for an Act Relating to Land Exchange.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to enter into a land exchange with Nancy Katayama Kobayashi, aka Nancy Sumako Kobayashi, trustee under that certain unrecorded Nancy Katayama Kobayashi revocable living trust agreement dated October 21, 1990, a short form trust agreement of which is filed as Land Court Document No. 2038209; Glenn Ichiro Kobayashi, husband of Grace Rumi Kobayashi; Joseph Niro Kobayashi, unmarried; Catherine Sachiko Ginoza, unmarried; Elizabeth Yasuko Ito, unmarried; and Christine Yoshiko Kobayashi, single, involving private land situated at Waioli, Hanalei, Kauai, identified as TMK: (4)5-5-06:09 por., for five parcels of public land in Hanalei, Kauai, identified as TMK: (4)5-5-06:10, (4)5-5-04:18, (4)5-5-07:26, (4)5-1-03:01, and (4)5-1-05:07.

The board of land and natural resources, at its meeting of October 16, 1992, authorized the acquisition of approximately 2.87 acres of private lands for addition to Hanalei elementary school to fulfill the needed expansion of the school.

A land exchange with Nancy Katayama Kobayashi, et al. is consistent with the State's educational objectives on the island of Kauai and will provide added land to expand the facilities of Hanalei elementary school to meet the needs of its growing student body.

SECTION 2. The eighteenth legislature approves the land exchange involving private land situated at Waioli, Hanalei, Kauai, owned by Nancy Katayama Kobayashi, et al. and public lands situated at Hanalei, Kauai, according to section 171-50(a) and (b), Hawaii Revised Statutes.

SECTION 3. Notwithstanding section 171-50(c), Hawaii Revised Statutes, the eighteenth legislature approves the land exchange involving private land situated at Waioli, Hanalei, Kauai, owned by Nancy Katayama Kobayashi, et al. and public lands situated at Hanalei, Kauai; provided that an exchange deed containing the following items shall be executed between the parties:

- (1) The location and area of the parcels of land to be exchanged;
- (2) The value of the parcels of land to be conveyed by the State and the private parties;
- (3) The name or names of the appraiser or appraisers; and
- (4) The date of the appraisal, which shall be July 5, 1989, section 171-50(c)(4), Hawaii Revised Statutes, to the contrary notwithstanding.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 1996.

(Approved April 18, 1995.)



## ACT 19

S.B. NO. 634

A Bill for an Act Relating to Higher Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 307-2, Hawaii Revised Statutes, is amended to read as follows:

**“§307-2 Board of directors; composition.** The affairs of the research corporation shall be under the general management and control of the board of directors, hereinafter referred to as the “board”. The board shall consist of [nine] ten members. [The president and director of research of the University of Hawaii, and the director of business, economic development, and tourism of the State, or a designated representative, shall serve as ex officio voting members.] Five members of the board of regents of the University of Hawaii, selected by the board of regents, shall be members of the board for terms to be determined by the board of regents; provided that no term shall extend beyond the term as a member of the board of regents. The remaining [six] five members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor[, other than the ex officio members,] shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on July 1 and expiring on June 30. All members of the board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

The members of the board shall elect the chairperson of the board.

[If for any reason whatsoever any of the ex officio positions is eliminated or changed in any way, the officer performing the basic functions of such ex officio position shall qualify to serve as the ex officio voting member on the board.]”

SECTION 2. Section 307-3, Hawaii Revised Statutes, is amended to read as follows:

**“§307-3 Powers of the board.** The research corporation, under the direction of the board of directors, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of the powers and performance of duties granted to or imposed upon it by law.
- (2) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received.
- (3) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with the University of Hawaii or any other agency or political subdivision of the State, any private person, firm, partnership, association, company, or corporation only, as it may be necessary in the conduct of its business and on such terms as it may deem appropriate; provided that the research corporation shall not obligate any funds of the State except such as have been appropriated to it. Notwithstanding the foregoing, the research corporation may enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, whenever the donating or granting agency

or instrumentality determines that the university or any other agency of [our] the State cannot as effectively and efficiently accomplish the purposes for which such contracts, leases, cooperative agreements, or other transactions are being entered into; provided that the research corporation shall not obligate any funds of the State except such as have been appropriated to it.

- (4) To receive by gifts, grants, devises, bequests, or otherwise from private sources only, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received; except that no gift to the research corporation shall be accepted unless approved or confirmed by the board of directors. Notwithstanding the foregoing, the research corporation may receive gifts, grants or awards from any agency or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or from any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the university or any other agency of [our] the State cannot as effectively and efficiently accomplish the purposes for which such gifts, grants, or awards are being made, except that no gift to the research corporation shall be accepted unless approved or confirmed by the board of directors.
- (5) To have a corporate seal.
- (6) To sue and be sued in its own name.
- (7) To serve as trustee or beneficiary under terms of any gift, indenture, or will.
- (8) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to such conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all such conditions or trusts.
- (9) To conduct research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries, and processes; and to make, publish, and distribute the results thereof.
- (10) To coordinate and correlate activities and projects of the research corporation with the work of state agencies for the purpose of relating research work to the economic development of the State whenever practical or desirable.
- (11) To stimulate and promote cooperative research projects and activities.
- (12) To establish and maintain, or to assist in establishing and maintaining scholarships, fellowships, and professorships, and other staff positions for the purpose of aiding in the acquisition and dissemination of knowledge, and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor.
- (13) To prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether the same belongs to or is the work of any state agency or its employees, or university or one of its faculty members or employees, or the research corporation or its employees or a contractor of the research corporation. The printing

- or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the board of directors.
- (14) To do any or all other acts reasonably necessary to carry out the objects and purposes of the corporation and the university.”

SECTION 3. Section 307-4, Hawaii Revised Statutes, is amended to read as follows:

**“§307-4 Research corporation excepted from certain state laws.** In order to [promote cooperative research projects with private firms or persons,] carry out the purposes and objectives of the research corporation, including the conduct of research and training projects, the research corporation shall be granted flexibility in hiring its personnel and in handling and disbursing moneys by being excepted from the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Chapter 103D and ~~[[section[]]~~ 103-42, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 76, relating to civil service;
- (4) Chapter 77, relating to compensation; and
- (5) Section 78-1, relating to public employment.”

SECTION 4. Section 307-5, Hawaii Revised Statutes, is amended to read as follows:

**“§307-5 [Employees] Officers and employees of the research corporation.** The [board of directors may appoint an executive director and such other] President of the University of Hawaii shall be the president of the corporation. The board of directors may also appoint such other officers and employees as may be necessary in administering the affairs of the research corporation. It shall set the employees’ duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. It may grant such other benefits to its employees as it deems necessary. Employees of the research corporation shall not be entitled to any benefits conferred under chapter 76 relating to civil service, chapter 77 relating to compensation, chapters 78 to 83 relating to public employment, and chapter 88 relating to pension and retirement system.”

SECTION 5. Section 307-9, Hawaii Revised Statutes, is amended to read as follows:

**“§307-9 Special fund.** Notwithstanding any other law to the contrary, the research corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts. The provisions of section 304-8 and other laws to the contrary notwithstanding, this special account may be used to receive, disburse, and account for funds of research and training projects of the University of Hawaii, other state agencies, and political subdivisions of the State. All disbursements shall be drawn on such special account upon checks prepared and signed as approved by the executive director and some other person authorized by the board of directors.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval, except that Section 1 shall take effect on July 1, 1995.

(Approved April 19, 1995.)

ACT 20

H.B. NO. 1943

A Bill for an Act Relating to Contractors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-4, Hawaii Revised Statutes, is amended to read as follows:

“§444-4 Powers and duties of board. In addition to any other powers and duties authorized by law, the [contractors license] board shall:

- (1) Grant licenses, including conditional licenses, to contractors pursuant to this chapter and rules;
- (2) Adopt, amend, or repeal such rules as [it] the board may deem proper fully to effectuate this chapter and carry out the purpose thereof, which is the protection of the general public. All rules shall be approved by the governor and the director, and when adopted pursuant to chapter 91, shall have the force and effect of law. The rules may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter. The rules may require contractors to make reports to the board containing [such] any items of information as will better enable the board to enforce this chapter and rules, or as will better enable the board from time to time to amend the rules more fully to effectuate the purposes of this chapter. The rules may require contractors to furnish reports to owners containing [such] any matters of information as the board deems necessary to promote the purpose of this chapter. The enumeration of specific matters which may properly be made the subject of rules shall not be construed to limit the board's general power to make all rules necessary fully to effectuate the purpose of this chapter;
- (3) Adopt rules pursuant to chapter 91 necessary to implement the provisions of this chapter relating to CFCs, including, but not limited to, procedures for the disposal of air conditioning units utilizing CFCs that include mandatory recovery and recycling of CFCs;
- (4) Enforce this chapter and rules adopted pursuant thereto;
- (5) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant, renew, restore, or reinstate any license for any cause which would be [ground] grounds for revocation or suspension of a license;
- (6) Publish and distribute pamphlets and circulars containing [such] any information as [it] the board deems proper to further the accomplishment of the purpose of this chapter; [and]
- (7) Contract for professional testing services to prepare, administer, and grade the examinations [and tests] for applicants as may be required for the purposes of this chapter. The board shall determine the scope and length of [such] the examinations [and tests], whether [they] the examinations shall be oral, written, or both, and the score that shall be deemed a passing score[.];

- (8) Order summary suspension of a license; provided that summary suspensions may be delegated in accordance with section 436B-23;
- (9) Issue informal nonbinding interpretations or declaratory rulings, and conduct contested case proceedings pursuant to chapter 91; and
- (10) Subpoena witnesses and documents, administer oaths, receive affidavits and oral testimony, including telephonic communications.”

SECTION 2. Section 444-11, Hawaii Revised Statutes, is amended to read as follows:

“§444-11 No license issued when. (a) No license hereunder shall be issued to:

- (1) Any person unless the person has filed an application [therefor;] and paid the applicable fees;
- (2) Any person unless the person meets the experience requirements as prescribed in the board’s rules; provided that the board may accept experience acquired on a self-employed or unlicensed basis if the experience can be verified;
- (3) Any person who does not possess a history of honesty, truthfulness, financial integrity, and fair dealing; provided that any person who during the six years prior to application has failed to satisfy an undisputed debt or a judgment relating to services or materials rendered in connection with operations as a contractor shall be presumed not to possess a history of financial integrity;
- (4) Any person unless the person has successfully passed a written examination as prescribed by the board;
- (5) Any individual unless the individual is age eighteen years or more;
- (6) Any joint venture which is not exempt under section 444-2(8) unless the contracting business thereof is under the direct management of a [partner] member or employee thereof, and unless [such partner] the member or employee holds an appropriate license;
- (7) Any individual who is unable to qualify as a contractor or any partnership or corporation, unless the contracting business of [such] the individual, partnership, or corporation is under the direct management of an employee, partner, or officer [or employee] thereof[, and unless such officer or employee] who holds an appropriate license; [or]
- (8) Any person unless the person submits satisfactory proof to the [contractors license] board that the person has obtained workers’ compensation insurance, or has been authorized to act as a self-insurer [as required by] under chapter 386[.] or is excluded from the requirements of chapter 386;
- (9) Any person unless the person submits satisfactory proof to the board that the person has obtained liability insurance; or
- (10) Any person unless the person submits a bond if required by the board under section 444-16.5.

[In addition, any] (b) Any license issued hereunder shall not be renewed if the licensee no longer meets any [one or more] of the foregoing qualifications.

(c) An application shall be considered abandoned if the application is not completed and the required documents or other information are not submitted to the board within two years from the last date the documents or information were requested.”

SECTION 3. Section 444-11.1, Hawaii Revised Statutes, is amended to read as follows:

**“§444-11.1 Requirements to maintain license.** (a) A licensed contractor shall have and maintain in full force and effect the following:

- (1) Workers’ compensation insurance [when]; unless the licensee is [not] authorized to act as a self-insurer under chapter 386[.] or is excluded from the requirements of chapter 386;
- (2) Liability insurance from an insurance company or agency for comprehensive personal injury and property damage liability[.]; and
- (3) Bond when required by the board, under section 444-16.5.

(b) Failure, refusal, or neglect of any licensed contractor to maintain in full force and effect, the applicable workers’ compensation insurance, liability insurance, or bond shall cause the automatic [suspension] forfeiture of the license of the contractor effective as of the date of expiration or cancellation of [its] the contractor’s workers’ compensation insurance, liability insurance, or bond.

(c) The board shall not [reinstate] restore the [affected] forfeited license until satisfactory proof of continuous insurance and bond coverages is submitted to the board as required by this section.

(d) Failure to [effect a reinstatement of] restore a [suspended] license within sixty days [of the expiration of the requirements of licensing] after the date of forfeiture shall [cause it to be terminated, thereby forfeiting all license, biennial renewal and recovery fund] result in the forfeiture of all fees[.] and shall require the person to apply as a new applicant.

(e) The board may assess a fee not to exceed \$1,000, impose a bond, or restrict the license as a condition for the [reinstatement] restoration of a license [suspended] forfeited pursuant to this section.

(f) A licensee may, within [fifteen] sixty days after receipt of the notification of the [license suspension,] forfeiture, request an administrative hearing to review the [suspension] forfeiture pursuant to chapter 91.”

SECTION 4. Section 444-12, Hawaii Revised Statutes, is amended to read as follows:

**“§444-12 Application; fees.** (a) Every applicant for a license under this chapter shall complete and file an application [with] provided by the board [in such form and setting forth such information as may be prescribed or required by the board,] and shall furnish [such] any additional information bearing upon the issuance of the license as the board shall require. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a partnership, joint venture, or corporation, any partner, member, or officer thereof may sign the application and verify the same on behalf of the applicant.

(b) Every applicant who is required by the board to be examined shall pay, directly to the testing agency, an examination fee [as provided in rules adopted by the director pursuant to chapter 91].

(c) These fees shall be as provided in rules adopted by the director pursuant to chapter 91.”

SECTION 5. Section 444-15, Hawaii Revised Statutes, is amended to read as follows:

**“§444-15 Fees; biennial renewals[.]; inactive license.** (a) The biennial renewal fee or inactive license fee, and the recovery [and] fund, education fund, and compliance resolution fund fees [as provided in rules adopted by the director pursuant to chapter 91,] shall be paid to the board on or before April 30 of each even-numbered year. These fees shall be as provided in rules adopted by the director pursuant to chapter 91. Failure, neglect, or refusal of any licensee to pay [the

biennial renewal fee] these fees and to submit all documents [requested] required by the board before [that date] April 30 of each even-numbered year shall constitute a forfeiture of the licensee's license.

(b) Any forfeited license may be restored upon [written application therefor] submittal of all required documents and fees, plus a penalty fee, within sixty days from [that date and the payment of the required fee plus an amount equal to ten per cent thereof.] April 30 of the even-numbered year.

(c) Upon written request of a licensee, the board may place that person's active license in an inactive status. The [license,] licensee, upon payment of the inactive license fee, may continue inactive for the biennial period. Failure, neglect, or refusal of any licensee in inactive status to pay the inactive license fee shall constitute a forfeiture of the license. The license may be reactivated at any time during the biennial period by making written request to the board and by fulfilling all the requirements, including the payment of the appropriate fees. While in an inactive status, a licensee shall not engage in contracting; a licensee who violates this prohibition shall be subject to discipline under this chapter and the board's rules.

(d) For purposes of this chapter, the dishonoring of any check upon first deposit shall constitute a failure to meet the fee requirements."

SECTION 6. Section 444-17, Hawaii Revised Statutes, is amended to read as follows:

**"§444-17 Revocation, suspension, and renewal of licenses.** In addition to any other actions authorized by law, the board may revoke any license issued pursuant to this section, or suspend the right of a licensee to use a license, or refuse to renew a license for any cause authorized by law, including but not limited to the following:

- (1) Any dishonest, fraudulent, or deceitful act as a contractor that causes substantial damage to another;
- (2) Engaging in any unfair or deceptive act or practice as prohibited by section 480-2;
- (3) Abandonment of any construction project or operation without reasonable or legal excuse;
- (4) Wilful diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and the use thereof for any other purpose;
- (5) Wilful departure from, or wilful disregard of plans or specifications in any material respect without consent of the owner or the owner's duly authorized representative, that is prejudicial to a person entitled to have the construction project or operation completed in accordance with those plans and specifications;
- (6) Wilful violation of any law of the State, or any county, relating to building, including any violation of any applicable rule of the department of health, or of any applicable safety or labor law;
- (7) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all the licensee's transactions as a contractor for a period of not less than three years after completion of any construction project or operation to which the records refer or to permit inspection of those records by the board;
- (8) When the licensee being a partnership or a joint venture permits any partner, member, or employee of the partnership or joint venture who does not hold a license to have the direct management of the contracting business thereof;

- (9) When the licensee being a corporation permits any officer or employee of the corporation who does not hold a license to have the direct management of the contracting business thereof;
- (10) Misrepresentation of a material fact by an applicant in obtaining a license;
- (11) Failure of a licensee to complete in a material respect any construction project or operation for the agreed price if the failure is without legal excuse;
- (12) Wilful failure in any material respect to comply with this chapter or the rules adopted pursuant thereto;
- (13) Wilful failure or refusal to prosecute a project or operation to completion with reasonable diligence;
- (14) Wilful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with the licensee's operations as a contractor when the licensee has the ability to pay or when the licensee has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;
- (15) The false denial of any debt due or the validity of the claim therefor with intent to secure for a licensee, the licensee's employer, or other person, any discount of the debt or with intent to hinder, delay, or defraud the person to whom the debt is due;
- (16) Failure to secure or maintain workers' compensation insurance [when not], unless the licensee is authorized to act as a self-insurer under chapter 386[;] or is excluded from the requirements of chapter 386;
- (17) Entering into a contract with an unlicensed contractor involving work or activity for the performance of which licensing is required under this chapter;
- (18) Performing service on a residential or commercial air conditioner, utilizing CFCs, without using refrigerant recovery and recycling equipment;
- (19) Performing service on any air conditioner after January 1, 1994, without successful completion of an appropriate training course in the recovery and recycling of CFC and HCFC refrigerants, which included instruction in the proper use of refrigerant recovery and recycling equipment that is certified by Underwriter Laboratories, Incorporated; and
- (20) Violating chapter 342C."

SECTION 7. Section 444-25.5, Hawaii Revised Statutes, is amended to read as follows:

**"§444-25.5 Disclosure[.]; contracts.** [Any licensed contractor] (a) Prior to entering into a contract with a homeowner involving home construction or improvements [shall upon or before signing the contract, but before] and prior to the application for a building permit[.]; licensed contractors shall:

- (1) Explain verbally in detail to the [owner] homeowner all lien rights of all parties performing under the contract including the homeowner, the contractor, any subcontractor or any materialman supplying commodities or labor on the project[.];
- (2) Explain verbally in detail the [owner's] homeowner's option to demand bonding on the project, how [such a] the bond would protect the [owner] homeowner and the approximate expense of [such a] the bond[.]; and



- [(3) Secure signatures of the owner on a separate form, the language of which shall be approved by the contractors license board, which shall be printed in at least 12-point type and in the same language in which the contract was negotiated and which shall contain the provisions set out in paragraphs (1) and (2); provided that at the contractor's option, a separate form need not be used, so long as the disclosures required by this section are in the first page of the contractor's written contract and printed in at least 14-point type.]
- (3) Disclose all information pertaining to the contract and its performance and any other relevant information that the board may require by rule.
- (b) All licensed contractors performing home construction or improvements shall provide a written contract to the homeowner. The written contract shall:
  - (1) Contain the information provided in subsection (a) and any other relevant information that the board may require by rule;
  - (2) Be signed by the contractor and the homeowner; and
  - (3) Be executed prior to the performance of any home construction or improvement.
- (c) For the purpose of this section, "homeowner" means the owner or lessee of residential real property, including owners or lessees of condominium or cooperative units.
- [(4) Violation] (d) Any violation of this section shall be deemed an unfair or deceptive practice and shall be subject to provisions of chapter 480, as well as the provisions of this chapter.
- [(5) The contractors license board is authorized and directed to develop the disclosure language pursuant to this section.]”

SECTION 8. Section 444-26, Hawaii Revised Statutes, is amended to read as follows:

**“§444-26 Contractors recovery fund; use of fund; person injured; fees.**

(a) The [contractors license] board is authorized [and directed] to establish and maintain a contractors recovery fund from which any person injured by an act, representation, transaction, or conduct of a duly licensed contractor, which is in violation of this chapter or the rules adopted pursuant thereto, may recover by order of the circuit court or district court of the judicial circuit where the violation occurred, an amount of not more than \$12,500 per contract, regardless of the number of persons injured under the contract, for damages sustained by the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was suspended, revoked, forfeited, terminated, or in an inactive status at the time [of the injury.] the claimant entered into the contract with the contractor.

(b) For purposes of this chapter, “person injured” or “injured person” means and is limited to owners or lessees of private residences, including condominium or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to [their] the owners’ or lessees’ own private residences and owners or lessees of real property who have contracted with a duly licensed contractor for the construction of [their] the owners’ or lessees’ own private residences on [their] the owners’ or lessees’ real property.

(c) When any person applies for a contractors license, the person shall pay, in addition to the person's original license fee, a fee of \$150 for deposit in the contractors recovery fund, and a fee for deposit in the contractors education fund as

## ACT 21

provided in rules adopted by the director pursuant to chapter 91. In the event that the [contractors license] board does not issue the license, these fees shall be returned to the applicant.”

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved April 20, 1995.)

## ACT 21

H.B. NO. 1963

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 296C-2, Hawaii Revised Statutes, is amended to read as follows:

**“§296C-2 Mandate to initiate school/community-based management system.** The department of education through the board of education and its superintendent shall formulate policies, including criteria and procedures to determine which schools and learning support centers shall participate in the system, to initiate a school/community-based management system in the public schools. [The board of education shall appoint a representative selection panel to recommend which schools and learning support centers should be selected.] For purposes of this chapter, the term “school/community-based management system” shall mean a method of educational management which diffuses educational decisionmaking to involve or secure the input of those directly affected by the decision to be made at the school level, and encourages school initiated methods for achieving educational goals established statewide by the board.”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 20, 1995.)

## ACT 22

S.B. NO. 1638

A Bill for an Act Relating to Recordation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 501-20, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

**““Signature” means the name of a person as written by the individual or the affixing of a mark or finger or toe print.”**

SECTION 2. Chapter 502, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§502- Definitions.** As used in this chapter, unless the context otherwise requires:

“Grantee” means a party that acquires interest by way of transfer of real property.

“Record”, “recorded”, or “recording” means the act of entering into the public records the written instruments affecting title to real property.

“Signature” means the name of a person as written by the individual or the affixing of a mark or finger or toe print.”

SECTION 3. Section 501-31, Hawaii Revised Statutes, is amended to read as follows:

**“§501-31 Transfers pending application; temporary record; final record.** After the filing of an application, and before registration, the land therein described may be dealt with and instruments relating thereto shall be recorded and indexed by the registrar of conveyances in the usual manner and also entered in the index of applications; provided that such instruments shall state that application to register the land is pending and shall state the application number. A certified copy thereof shall be filed with the application. When any such instrument purports to convey the whole or any interest in the land, the original instrument, with the original signature, after recording shall be sent to the land court and filed with the application, whereupon the certified copy may be withdrawn.

As soon as an application is disposed of, the registrar shall make a memorandum stating the disposition of the case and shall send the same to the assistant registrar, who shall record and index it with the records of deeds in the bureau of conveyances, and in the index of applications. If the proceedings upon the application end in a decree of registration of title the land included therein shall, as soon as the decree is transcribed, as provided in section 501-75, become registered land. Thereafter no deeds or other instruments relating solely to such land shall be recorded with the records of deeds, but shall be registered in the registration book and filed or recorded and indexed with the records and documents relating to registered land.”

SECTION 4. Section 501-105, Hawaii Revised Statutes, is amended to read as follows:

**“§501-105 Grantee’s address, etc., to be stated.** Every deed or other voluntary instrument presented for recording shall contain or have indorsed upon it the full name or names, if more than one, and the address of the grantee or other person acquiring or claiming an interest under the instrument and every [deed] document shall also contain or have indorsed upon it a statement that the grantee is married or unmarried, and if married, the statement shall give the name in full of the husband or wife. Whenever the grantee is a corporation or partnership, the document shall contain or have indorsed upon it the State where the entity is registered and the entity’s address. All names and addresses shall also be entered on all certificates. Notices and processes issued in relation to registered land in pursuance of this chapter may be served upon any person in interest by mailing the same to the address so given, and shall be binding whether such person resides within or without the State.

Any deed conveying one or more but not all lots or all interests in a lot appurtenant to apartments in a condominium property regime in a certificate shall

contain full memoranda relating to easements, rights-of-way, and all other liens and encumbrances affecting the particular lot, lots, interest appurtenant to an apartment, or interests appurtenant to apartments conveyed. If the deed affects all of the land or interests appurtenant to apartments in a certificate of title, encumbrances may be referred to by reference.”

SECTION 5. Section 502-31, Hawaii Revised Statutes, is amended to read as follows:

**“§502-31 Recording, method.** The registrar shall make or cause to be made an entire literal copy of all instruments, with their original signatures, required to be recorded in the registrar’s office, and the registrar, the registrar’s deputy, or clerk shall certify its correspondence with the original, after which the registrar, the registrar’s deputy, or clerk shall certify upon the exterior, or indorse upon the recorded instrument[,], with the original signature, the date of its registry and the document number.

The registrar, for purposes of the general indexes of the bureau of conveyances, shall use the names of the parties as they first appear in the recorded instrument. All names of all natural persons signing in their individual capacity shall be typewritten, stamped, or printed by some other mechanical or electrical printing method beneath all signatures.

The registrar or the registrar’s deputy may refuse to accept for record any document of a size larger than eight and one-half inches by [fourteen] eleven inches, or which contains a schedule or inventory sheet in excess of such size.

This section shall apply to all instruments presented for recording in the bureau of conveyances, unless otherwise provided by rules adopted by the department of land and natural resources, pursuant to chapter 91.

[On all] All instruments to be recorded shall include the original signature and the top three and one-half inches of space of the first page shall be reserved for recording information for the assistant registrar on the left half of such space, and for the registrar of conveyances on the right half of such space. The following one inch of space shall be reserved for information showing to whom the document should be returned[.] beginning one and one-half inch from the left margin and not exceeding three and one-half inches per line. In addition, the first page shall identify and include, if possible, all names of the grantors and all names and addresses of the grantees, the type of document, and the tax map key number. Each page of the instrument shall be single-sided sheets of written text. No papers or materials, written or otherwise, shall be secured or attached to a page in any manner that may conceal any other written text. If an instrument consists of more than one page, it shall be stapled once in the upper left corner. The registrar of conveyances shall be permitted to remove any rivets affixed to any instrument. The registrar may refuse to accept all instruments, papers, or notices presented for recordation that will not reproduce legibly under photographic or electrostatic methods.”

SECTION 6. Section 502-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person without the United States may be made by:

- (1) Any officer now authorized thereto by the laws of the State;
- (2) Any officer of the United States diplomatic or consular service, resident in any foreign country or port, when certified by him under his seal of office; and

- (3) Any person authorized by the law of any foreign country to take such acknowledgment or proof, when such acknowledgment or proof is accompanied by a certificate to the effect that the person taking the same is duly authorized thereto and that such acknowledgment or proof is in the manner prescribed by the laws of the foreign country[.] or by treaty or international agreement of the United States. The certificate may be made by a diplomatic or consular officer of the United States under the seal of his office, or by a diplomatic or consular officer of the foreign country, resident in the State, under the seal of his office[.] with the signature or facsimile of the signature of the diplomatic or consular officer of the United States.

For the purposes of this section diplomatic or consular officer includes any minister, consul, vice-consul, charge d'affaires, consular, or commercial agent, or vice-consular or vice-commercial agent."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect sixty days after its approval.

(Approved April 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 23**

S.B. NO. 1753

A Bill for an Act Relating to Client Referrals Between Attorneys and Health Care Providers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:10C-308.7, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

“(e) The regulated industries complaints office, department of commerce and consumer affairs, shall refer reports of any attorney [or health care provider] in violation of this section to the appropriate professional licensing or regulatory body, for [appropriate] investigation and disciplinary action, including the suspension or revocation of the attorney’s [or health care provider’s] license to practice.

(f) The regulated industries complaints office, department of commerce and consumer affairs, may initiate investigations and disciplinary action to enforce this section [and shall investigate] regarding any reports of [attorney-health] health care provider referrals of persons eligible for benefits under this article that may violate this section.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 21, 1995.)

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Whenever a new motor vehicle dealer sells a new motor vehicle to a person, the new motor vehicle dealer shall detach the permanent number plate issued under subsection (c) from that new motor vehicle and replace it with one temporary [motor vehicle] number plate. The temporary number plate shall be attached to the rear of the vehicle in the same location as required for number plates under section 249-7. The new motor vehicle dealer shall [only] print only the following upon the temporary [motor vehicle] number plate [the]:

- (1) [Date which] The date that is thirty working days after the date [which] the [person] new owner takes possession[, of the motor vehicle], which date shall be placed in the middle of the temporary number plate in numbers not less than four inches in height;
- (2) [Name] The name and address of the new owner;
- (3) [Name] The name and address of the new motor vehicle dealer;
- (4) [Serial] The serial number of the new motor vehicle; and
- (5) [Date] The date the new motor vehicle owner took possession of the motor vehicle.

Any temporary number plate upon which is placed any drawings, pictures, or words other than what is required by paragraphs (1) through (5), shall be invalid.

[Items] The information required by paragraphs (3) through (5) shall be printed in the upper left corner of the temporary number plate.

The temporary number plate shall be valid through the date listed in [item] paragraph (1).

Any person who operates a motor vehicle with an expired<sup>1</sup> temporary number plate shall be fined not more than [\$100.] \$500. Any new motor vehicle dealer who prepares an invalid temporary number plate shall be fined not more than \$500.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

**Note**

1. Prior to amendment “or invalid” appeared here.

## ACT 25

H.B. NO. 360

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 224, Session Laws of Hawaii 1993, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon its approval and shall be repealed on June 30, [1995.] 1997.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 26

H.B. NO. 553

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-200, Hawaii Revised Statutes, is amended to read as follows:

“**§412:9-200 General powers.** Except as expressly prohibited or limited by this chapter, a financial services loan company shall have the power to make loans where the interest charged, contracted for, or received is in excess of rates permitted by law, other than this article, and to engage in other activities [which] that are usual or incidental to the business for which it is licensed, and shall have all rights, powers, and privileges of a corporation organized under the laws of this State, including but not limited to, the power to:

- (1) Make loans and extensions of credit of any kind, whether unsecured or secured by real or personal property of any kind or description;
- (2) Borrow money from any source within or without this State;
- (3) Charge or retain a fee for the originating, selling, brokering, or servicing of loans and extensions of credit;
- (4) Discount, purchase, or acquire loans, including but not limited to notes, credit sales contracts, mortgage loans, or other instruments;
- (5) Become the legal or beneficial owner of tangible personal property and fixtures and such other real property interests as shall be incidental thereto, to lease such property, to obtain an assignment of a lessor's interest in a lease of the property, and to incur obligations incidental to the financial services loan company's position as the legal or beneficial owner and the lessor of the property;
- (6) Sell or refer credit related insurance products, and collect premiums or fees for the sale or referral thereof, including, but not limited to, credit life insurance, credit disability insurance, accident and health or sickness insurance, involuntary unemployment insurance, personal property insurance, and mortgage protection insurance; and

- (7) Make investments as permitted under this article.”

SECTION 2. Section 412:9-304, Hawaii Revised Statutes, is amended to read as follows:

“**§412:9-304 Consumer loan charges.** Unless specifically authorized in this article or by rule adopted by the commissioner, a financial services loan company shall only have the right to charge, contract for, and receive in advance or otherwise the following charges in addition to the interest permitted in section 412:9-302 for a consumer loan made under this article:

- (1) Late charges under the consumer loan on any delinquent installment, or portion of the delinquent installment where there has been no extension or deferment. Delinquency occurs when the installment or payment is not paid on the due date. Late charges shall not be collected more than once for the same delinquent installment. Late charges on any consumer loan shall not exceed five per cent of the delinquent installment, and late charges shall not be assessed on any consumer loan after acceleration of the maturity of the consumer loan;
- (2) A prepayment penalty as provided in the note or other form of contract signed by the borrower on any amount [which] that is voluntarily prepaid; provided that:
  - (A) The prepayment penalty on any consumer loan with a term of five years or more that is primarily secured by an interest in real property and in which the interest rate is computed under section 412:9-301(2) and which is prepaid within five years of the date of the loan shall be computed on the amount prepaid in excess of twenty per cent of the original principal amount of the loan in any twelve-month period measured from the date of the loan or from any anniversary of the loan date. The prepayment penalty may be charged only on amounts in excess of the twenty per cent amount in each twelve-month period in such five-year period and shall not exceed six months of interest at the maximum interest rate permissible for the consumer loan by law on the amount prepaid;
  - (B) The prepayment penalty shall not be charged on a consumer loan that is a variable rate or open-end loan, on a precomputed loan on which interest is computed under section 412:9-301(1), or on loans [which] that are not secured by real estate; and
  - (C) The prepayment penalty shall not be charged on any amount [which] that is paid because of the exercise of any acceleration provision by the financial services loan company;
- (3) Extension or deferment charges on any payment on account of the principal balance of a loan, or a portion thereof, [which] that is due on a particular date [and which] but is extended or deferred to a later date by mutual agreement. The charges shall be based upon the amount so extended or deferred at interest not exceeding that permitted upon the original loan under section 412:9-302, for the actual period of the extension or deferment. The extension or deferment charges may be collected either in advance at the commencement of the period of extension or deferment or otherwise as agreed. The term and conditions of the extension or deferment, including the amount of the consumer loan so extended or deferred, and the period of, and the charge for the extension or deferment shall be set forth in writing and signed by the borrower with one copy given to the borrower;



- (4) Nonrefundable discount, points, loan fees, and loan origination charges, provided that:
  - (A) Discount, points, loan fees, and loan origination charges shall not be charged on precomputed loans on which interest is computed under section 412:9-301(1); and
  - (B) The nonrefundable discount, points, loan fees, and loan origination charges shall be permitted on consumer loans on which interest is computed under section 412:9-301(2) only if the consumer loan is secured by an interest in real property. Provided further[,] that, except for open-end loans, the nonrefundable discount, points, loan fees, and origination charges shall be included as interest to determine compliance of the loan with the interest rate limits under section 412:9-302(b)(2) when the consumer loan is made.

The nonrefundable discount, points, loan fees, and loan origination charges shall be fully earned on the date the loan commitment agreement or other form of contract is executed and the commitment fee paid or on the date the consumer loan is made and shall not be subject to refund on prepayment of the consumer loan;

- (5) Fees, charges, and expenses reasonably related to the consumer loan transaction [which] ~~that~~ are retained by the financial services loan company[.]; provided that [such] ~~the~~ fees are bona fide and reasonable and not unfair or deceptive. [Such] These fees are limited to notary fees, appraisal fees, appraisal review fees, and any other fees as adopted by the commissioner pursuant to rule;
- (6) Fees, charges, and expenses reasonably related to the consumer loan transaction [which] ~~that~~ are actually paid to third parties, no portion of which inures to the benefit of the financial services loan company. [Such] The fees, charges, and expenses may include, but are not limited to, charges for credit reports, actual taxes and fees charged by a governmental agency for recording, filing or entering of record any security agreements or instruments including the partial or complete release of such security agreements or instruments, insurance premiums of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z of the Board of Governors of the Federal Reserve System; provided that the insurance premium shall not exceed [\$4,] \$20, appraisal fees, appraisal review fees, title report or title insurance fees, mortgage reserve funds to be used for payment of taxes, insurance, lease rent and condominium assessments, and attorney's fees and expenses for documentation of the consumer loan or for the collection of any consumer loan in default."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-409, Hawaii Revised Statutes, is amended to read as follows:

**“§412:9-409 Permitted investments.** (a) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States[,] including, without limitation, Federal Reserve Banks, the Government National Mortgage Association, the Department of Veterans [Administration,] Affairs, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States[,] including, without limitation, Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, the Federal National Mortgage Association, the Financing Corporation, the Resolution Funding Corporation, the Student Loan Marketing Association, the Tennessee Valley Authority, and the United States Postal Service; and
- (3) Quasi-United States governmental institutions[,] including, without limitation, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions in which the United States Government is a shareholder or contributing member[.]; provided that the total amount invested in any one issuer shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(b) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of [such] these states, territories, or possessions, or by any foreign country or political subdivision of [such] that country; provided[,] that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of [any such] that government;

- (2) There has been no default in payment of either principal or interest on any of the general obligations of [such] that government for a period of five years immediately preceding the date of the investment; and
- (3) The total amount invested in [such] the obligations of any one issuer by a depository financial services loan company shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(d) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided[, ] that the aggregate amount invested by a depository financial services loan company under this subsection and subsections (e) and (g)(3) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(e) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in securities of [an] investment grade[.] quality. The term "investment grade" means notes, bonds, certificates of interest or participation, beneficial interests, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality[, ] including, without limitation, those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the depository financial services loan company in its prudent judgment [(, which may be based in part upon estimates which it believes to be reliable[.])]. Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a depository financial services loan company under this subsection and subsections (d) and (g)(3) in any one company or other issuer shall not exceed twenty per cent of the depository financial services loan company's capital and surplus. Subject to the approval of the commissioner, the twenty per cent limitation shall not apply to investment grade securities secured entirely by mortgage loans originated by the depository financial services loan company. In approving any transaction under this section, the commissioner may impose any conditions to ensure the safety and soundness of the institution.

(f) To the extent specified [herein,] in this subsection, a depository financial services loan company may purchase, hold, convey, sell, or lease real or personal property as follows:

- (1) The real property in or on which the business of the depository financial services loan company is carried on, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary [to] for the accommodation of the depository financial services loan company's business, including but not limited to parking facilities, data processing centers, and real property held for future use where the depository financial services loan company in good faith expects to utilize the property as depository financial services loan company premises; provided, if the depository financial services loan company ceases to use any real property and improvements thereon for one of the foregoing purposes, it [shall], within five years thereafter, shall sell the real property or cease to carry it [or them] as an asset; provided further, [such] the property [shall not], without the approval of the commissioner, shall not exceed seventy-five per cent of the depository financial services loan company's capital and surplus;

- (2) Personal property used in or necessary [to] for the accommodation of the depository financial services loan company's business, including but not limited to furniture, fixtures, equipment, vaults, and safety deposit boxes[. The]; provided that the depository financial services loan company's investment in furniture and fixtures [shall not], without the approval of the commissioner, shall not exceed twenty-five per cent of the depository financial services loan company's capital and surplus;
- (3) Personal property and fixtures which the depository financial services loan company acquires for purposes of leasing to third parties and [such] any real property interests [as shall be] that is incidental thereto;
- (4) [Such] Any real property or tangible personal property [as] that may come into its possession as security for loans or in the collection of debts; or [as] that may be purchased by or conveyed to the depository financial services loan company in satisfaction of or on account of debts previously contracted in the course of its business, when [such] the property was held as security by the depository financial services loan company; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85[,] including, without limitation, the reversionary interest in the real property and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section, any tangible personal property coming into the possession of any depository financial services loan company pursuant to [[subsection (f)(4)]] paragraph (4) shall be disposed of as soon as practicable and [shall not], without the written consent of the commissioner, shall not be considered a part of the assets of the depository financial services loan company after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section, any real property acquired by a depository financial services loan company pursuant to [[subsection (f)(4)]] paragraph (4) shall be sold or exchanged for other real property by the depository financial services loan company within five years after title thereto has vested in it by purchase or otherwise, or within [such] any further time [as] that may be extended by the commissioner.

Any depository financial services loan company acquiring any real property in any manner other than provided by this section [shall] immediately, upon receiving notice from the commissioner, shall charge the same to profit and loss, or otherwise remove the same from the assets, and when any loss impairs the capital and surplus of the depository financial services loan company, the impairment shall be made good in the manner provided in this chapter.

(g) To the extent specified [herein,] in this subsection, a depository financial services loan company may invest its own assets in capital stock of:

- (1) Service corporations as set forth in this article;
- (2) A corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by [such] the stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within [such] any further time [as] that may be granted by the commissioner;
- (3) Companies listed on the New York or American stock exchanges or on the National Association of Securities Dealers Automated Quotations; provided that the aggregate amount invested by a depository financial services loan company under this paragraph and subsections (d) and (e) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(h) To the extent specified in this subsection, a depository financial services loan company may invest its own assets in securities issued by a diversified investment management company (as defined in the Investment Company Act of 1940), commonly known as a diversified mutual fund. The fund must have been in existence for at least five years. The aggregate amount invested by a depository financial services loan company under this subsection in any one diversified mutual fund shall not exceed twenty per cent of the depository financial services loan company's capital and surplus."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 28

H.B. NO. 867

A Bill for an Act Relating to Condominium Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-83.6, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) As used in this section:

"Capital expenditure" means an expense [which] that results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset [which] that extends the life of an existing asset for a period greater than one year.

"Emergency situation" means any [of the following] extraordinary expenses:

- (1) [An extraordinary expense required] Required by an order of a court;
- (2) [An extraordinary expense necessary] Necessary to repair or maintain any part of the property for which the association is responsible where a threat to personal safety on the property is discovered;
- (3) [An extraordinary expense necessary] Necessary to repair any part of the property for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget; or
- (4) [An extraordinary expense necessary] Necessary to respond to any legal or administrative proceeding brought against the association that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget.
- (5) Necessary for the association to obtain adequate insurance for the property which the association must insure.

"Major maintenance" means an expenditure for maintenance or repair [which] that will result in extending the life of an asset for a period greater than one year.

"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including, but not limited to roofs, walls, decks, paving, and equipment, [which] that the association is obligated to maintain."

## ACT 29

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 29

H.B. NO. 1274

A Bill for an Act Relating to Public Improvements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 107-11, Hawai'i Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who violates any of the rules and regulations promulgated by the comptroller [shall be guilty of a misdemeanor and] shall be fined not more than \$50 [or imprisoned not more than ten days, or both,] for each violation.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

### Note

1. No underscored material.

## ACT 30

H.B. NO. 1313

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Between 1895 and 1921, a number of families throughout Hawaii were granted long-term nine hundred ninety-nine-year leases to public lands. There are approximately fifty-one families that still hold these nine hundred ninety-nine-year leases today. Due to the unique structure of the nine hundred ninety-nine-year leases, with absolute restrictions against mortgage or transfer, a descent scheme set out by statute, and other features, many families are unable to maintain homes or otherwise effectively use the land. The nature of the leases has also caused significant conflict among several families. The history of the nine hundred ninety-nine-year leases and the problems related to the leaseholds are detailed in the January 10, 1994, report: “Analysis of the 999 Year Homestead Lease Program: Current Problems and Possible Solutions”, prepared for the seventeenth legislature and the office of Hawaiian affairs.

Who holds a rightful interest in the nine hundred ninety-nine-year leases is determined by the application of the descent scheme set forth in section 171-99(e), Hawaii Revised Statutes. After nearly one hundred years, there is frequently lack of documentation and uncertainty regarding the identity of the rightful holders of the nine hundred ninety-nine-year leases. This uncertainty exacerbates many of the

problems experienced by lessees and their families, and created significant barriers to implementing solutions. Furthermore, determining the rightful holders of the leaseholds is necessary for the exercise of certain rights held by the lessees.

Families desiring to clarify or legally establish their rights have few resources and options. Under current law, the only means of determining the interests of lessees is through a probate court determination of heirs. Obtaining a court determination of heirs can be expensive and creates a difficult and often insurmountable barrier for some families.

In addition to the nine hundred ninety-nine-year lease families, there are a number of other persons of Hawaiian heritage for whom legal entitlements rest significantly upon genealogy determinations. These persons, likewise, face a lack of resources and cumbersome processes for determining genealogies, descents, blood quantum, and other related facts. If the successor determination program for the nine hundred ninety-nine-year lease holders proves effective, it could serve as a model for other situations.

The purpose of this Act is to statutorily authorize a successor determination program within the office of Hawaiian affairs which would allow for a range of services including genealogy research guidance and assistance, genealogy research, and an arbitration program for determining leasehold interests under section 171-99(e).

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§171- Successor determination program.** (a) The office of Hawaiian affairs may establish a successor determination program to assist persons with an interest or presumed interest in a nine hundred ninety-nine-year homestead lease to determine their legal interests under the provisions of section 171-99(e).

(b) The successor determination program may provide:

- (1) Genealogy data and information;
- (2) Assistance and guidance regarding genealogy research;
- (3) Research services;
- (4) Mediation services; and
- (5) Binding and nonbinding arbitration.

(c) The arbitration program shall:

- (1) Establish a panel of persons knowledgeable in matters of genealogy who will be available as arbitrators for the arbitration program;
- (2) Within one hundred twenty days of the effective date of this Act, adopt written procedures under chapter 91 for the conduct of arbitrations under this section; provided that if no such written procedures are adopted within one hundred twenty days, the commercial arbitration rules of the American Arbitration Association shall apply to the extent not inconsistent with this section until such time as other written procedures are adopted; provided further, that any proceedings that are commenced under the commercial arbitration rules of the American Arbitration Association shall be completed under those rules;
- (3) Provide for notice of the arbitration proceeding in the same manner as required for a probate court determination of heirs;
- (4) Provide an opportunity for all persons claiming an interest in the subject nine hundred ninety-nine-year leasehold to participate;
- (5) Provide for binding arbitration if all participants who respond to a notice of arbitration indicate that they desire the arbitration to be binding. If any participant fails to indicate, or indicates that the participant desires nonbinding arbitration, the arbitration shall be nonbinding;

- (6) Apply section 171-99(e), to determine the legal interests of the participants in the subject nine hundred ninety-nine-year lease;
- (7) Provide a written arbitration award setting forth the legal interests of the participants in the subject nine hundred ninety-nine-year lease; and
- (8) Conduct arbitrations under and subject to the provisions of chapter 658, and subject to confirmation by the circuit court upon application of any participant in the arbitration pursuant to section 658-8.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 31**

H.B. NO. 1427

A Bill for an Act Relating to the Probate Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify section 560:3-1201 of the probate code, relating to the collection of personal property by affidavit and summary administration of small estates.

First, the intent of the legislature is that all types of personal property, both tangible and intangible, are transferrable by affidavit pursuant to section 560:3-1201. Because of the current wording of that section, however, there is a question as to whether it actually has that scope. For example, it is not clear that vested interests in trust estates are transferrable pursuant to that section. Section 560:3-1201 is amended to clarify that all such personal property is transferrable by affidavit.

Second, section 560:3-1201 focuses on “a person claiming to be the successor of the decedent”, thus raising a question whether the affidavit procedure under that section is available in the common case in which a decedent leaves more than one heir or devisee. There is no valid policy reason why the affidavit procedure should be available where a decedent leaves only one successor but should not be available where the decedent leaves more than one. The section is therefore amended to clarify that the affidavit procedure is available in both cases in which a decedent leaves just one successor and in cases in which a decedent leaves more than one successor.

Finally, section 560:3-1201 does not clearly require registrars of title—for example, the county directors of finance (with respect to motor vehicles), various transfer agents (with respect to stock certificates), and the director of transportation (with respect to boats, etc.)—to issue new indicia of ownership to one who presents the type of affidavit contemplated by that section. The section is therefore amended to require any such registrar of title to change the registered ownership of the decedent’s interest in the property from the decedent to the decedent’s claimed successor, and to issue a certificate or other document evidencing ownership of the property by the successor.

SECTION 2. Section 560:3-1201, Hawaii Revised Statutes, is amended to read as follows:



**“§560:3-1201 Collection of personal property by affidavit.** (a) Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, [or] chose in action, or other intangible personal property belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing [a] the debt, obligation, stock, [or] chose in action, or other intangible personal property to a person or persons [claiming] claimed to be the successor or successors of the decedent or to the department of human services where the department has paid for the decedent’s burial [services] pursuant to section 346-15, upon being presented a death certificate for the decedent and an affidavit made by or on behalf of the claimed successor or successors or the department of human services stating that:

- (1) The gross value of the decedent’s estate in this State does not exceed \$20,000; except that a motor vehicle registered in the decedent’s name may be transferred regardless of value pursuant to this section;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and
- (3) [(a)] (A) The [claiming] claimed successor [is] or successors are entitled to [payment or delivery of] the property and explaining the relationship of the [claiming] claimed successor or successors to the decedent; or  
 [(b)] (B) The department of human services has paid for the decedent’s burial.

The affidavit of the department of human services shall have priority over any other claim [filed] presented pursuant to this section.

(b) Upon the presentation of an affidavit meeting the requirements of subsection (a), any person having legal authority to issue a certificate or other evidence of ownership of tangible personal property or a debt, obligation, stock, chose in action, or other intangible personal property belonging to the decedent shall change the registered ownership of the decedent’s interest in the property from the decedent to the decedent’s claimed successor or successors and shall issue a certificate or other document evidencing the ownership of the property by the decedent’s claimed successor or successors.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 32

H.B. NO. 1848

A Bill for an Act Relating to Pesticide Residue Labeling.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part IV of chapter 148, Advertising and Marketing, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

A Bill for an Act Relating to Interstate Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:2-503, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If the failing financial institution is a bank, savings bank, or depository financial services loan company that is a Hawaii financial institution, or if the institution to result from the acquisition proposed in the application is to be any of the foregoing, the commissioner may accept an application under this part only from:

- (1) A Hawaii financial institution;
- (2) A federal financial institution whose operations are principally conducted in this State (unless the operations of any holding company of such an applicant are principally conducted in a state other than Hawaii or a qualifying state);
- (3) A financial institution whose operations are principally conducted in a qualifying state (unless the operations of any holding company of such an applicant are principally conducted in a state other than Hawaii or a qualifying state);
- (4) The holding company of any of the foregoing, if any (unless the operations of such holding company or any holding company of such holding company are principally conducted in a state other than Hawaii or a qualifying state); [and]
- (5) A person that is not a company[.]; and
- (6) Notwithstanding any other limitations in this section, a bank holding company as defined under the Bank Holding Company Act of 1956, as amended, that is adequately capitalized and adequately managed.”

SECTION 2. Section 412:2-505, Hawaii Revised Statutes, is amended to read as follows:

“**§412:2-505 [Granting of applications; priorities.** In considering applications under this part, the commissioner shall give priority to the following tiers:

- (1) First, to Hawaii financial institutions and federal financial institutions whose operations are principally conducted in this State (unless the operations of any holding company of any such Hawaii financial institution or federal financial institution are principally conducted in a state other than Hawaii), to holding companies of the foregoing (unless the operations of any such holding company or the operations of any holding company of such holding company are principally conducted in a state other than Hawaii), and to persons that are not companies;
- (2) Second, to financial institutions whose operations are principally conducted in a qualifying state and to holding companies of the foregoing (unless the operations of any such holding company or the operations of any holding company of such holding company are principally conducted in a state other than Hawaii or a qualifying state); and
- (3) Third, to any other person whose application may be approved under this part.

Before a financial institution, holding company, or person described in paragraph (2) or (3) may be considered, all Hawaii institutions and holding compa-

nies which the commissioner deems to be qualified to submit any proposal to acquire not less than substantially all of the deposits or federally insured deposits of the failing financial institution must affirmatively decline to submit any proposal to acquire only the deposits of the failing financial institution.] Waiver of statewide concentration limits under the Bank Holding Company Act of 1956, as amended. If the commissioner finds that waiver of the statewide concentration limits under section 3(d) of the Bank Holding Company Act of 1956, as amended, is necessary to prevent probable failure of the Hawaii financial institution, the commissioner shall have the power to issue a waiver of those statewide concentration limits.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 34

H.B. NO. 1940

A Bill for an Act Relating to Pharmacists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read as follows:

““Encumbered license” means a license issued by any state or territory of the United States for the practice of pharmacy which is revoked, suspended, or made probationary or conditional by the licensing or registering authority in the respective jurisdiction as a result of disciplinary action.

“Practitioner” means an individual licensed by the State to prescribe prescription drugs within the scope of the person’s practice.”

2. By amending the definition of “prescription” to read as follows:

““Prescription” means an order or formula issued by a [licensed] practitioner [of medicine, osteopathy, podiatry, dentistry, or veterinary medicine,] licensed by the State to prescribe prescription drugs within the scope of the practitioner’s practice, for the compounding or dispensing of drugs[.] or an order or formula issued by an out-of-state practitioner in compliance with chapter 328.”

SECTION 2. Section 461-5, Hawaii Revised Statutes, is amended to read as follows:

“§461-5 Qualifications for license. (a) Any applicant for a license as a pharmacist shall submit an application on a form prescribed by the board and shall provide evidence to the board that the applicant:

(1) Is at least eighteen years of age;

- (2) Holds a degree from a school or college of pharmacy or department in a university[,] which [school or college or department] is recognized and accredited by the American Council of Pharmaceutical Education;
- (3) Has a minimum of fifteen hundred hours practical experience in any state of the United States in a pharmacy under the supervision of a registered pharmacist. Service and experience in a pharmacy under the supervision of a registered pharmacist as required in this section shall be predominantly related to the selling of drugs, compounding prescriptions, preparing pharmaceutical preparations, and keeping records and making reports required under state and federal statutes. In the event an applicant has no practical experience as required, the applicant may take the examination and upon passing the examination, shall not receive a license until after the fulfillment of the practical experience requirement; [and]
- (4) Has passed an examination as may be prescribed by the board[.]; and
- (5) Does not have an encumbered license or a pending disciplinary action or unresolved complaint in the practice of pharmacy in any state or territory of the United States, or if any license has been or is encumbered, the applicant shall provide all information requested by the board.

(b) Any applicant who is otherwise qualified to apply for a license to practice pharmacy in this State, but who is a graduate of a school or college of pharmacy located outside the United States[, whose school or college of pharmacy] which has not been recognized by the board as an accredited school [but who is otherwise qualified to apply for a license to practice pharmacy in this State], may be deemed to have satisfied the requirement of subsection (a)(2) by providing verification to the board of the applicant's academic record and [the applicant's] graduation and by meeting other requirements as the board may establish from time to time. The board shall require the applicant to successfully pass an examination or examinations given or approved by the board to establish proficiency in English if the school is located outside the United States in a country where the official language is not English, and equivalency of education of [such] the applicant with qualified graduates of a school or college recognized by the board as a prerequisite to taking the licensure examination [provided for in] required by section 461-6."

SECTION 3. Section 461-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Every [application for examination shall be made] applicant for a license as a pharmacist, except an applicant applying under section 461-8.5, shall apply on a form to be supplied by the board and shall [be filed] either file the form with the board at least sixty days before the examination[.], or if taking the exam in another state pursuant to the National Association of Boards of Pharmacy Score Transfer Program, shall file the form no later than ninety days after the examination. Each application shall be accompanied by application and examination fees. Examinations shall be held at least twice a year."

SECTION 4. Section 461-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A registered pharmacist of any state or territory of the United States who does not have an encumbered license or any pending disciplinary action or unresolved complaints in any state or territory of the United States and who is not eligible for licensure by reciprocity under section [461-8.5] 461-8.5(5) may be

granted a temporary license by the board; provided that the person shall first pass the state jurisprudence examination with a score of not less than seventy-five.”

SECTION 5. Section 461-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“§461-8.5 Reciprocity.** [(a)] Any pharmacist who is registered or licensed under the laws of any state or territory of the United States with qualifications for licensure which equal or exceed those of this State, shall be eligible for licensure; provided that:

- (1) The pharmacist possesses a current valid license;
- (2) The pharmacist has practiced as a registered pharmacist for fifteen hundred hours or more within the five years preceding the date of application;
- (3) [No] There is no disciplinary action pending or other unresolved complaints [is pending] against the pharmacist in any state or territory[; and] of the United States;
- (4) The pharmacist does not have an encumbered license or a pending disciplinary action or unresolved complaint in the practice of pharmacy in any state or territory of the United States, or if any license has been or is encumbered, the pharmacist shall provide any information requested by the board; and
- [(4)] (5) The laws of the other state or territory grant reciprocal treatment to licensees of this State.

The board may examine [such] these licensees only as to knowledge of this State’s statutes and rules.

[(b)] If a registered pharmacist has not engaged in the practice of pharmacy in any state or territory of the United States for more than five years, the board may require the pharmacist to satisfy additional requirements, as specified in rules adopted pursuant to chapter 91, to demonstrate that the pharmacist is competent to practice in this State.]”

SECTION 6. Section 461-19, Hawaii Revised Statutes, is amended to read as follows:

**“§461-19 Application of law.** This chapter shall not apply to any practitioner legally licensed [practitioner of medicine, osteopathy, dentistry, or veterinary medicine] by the State to prescribe prescription drugs within the scope of the practitioner’s practice when the practitioner is handling drugs in the course of the practitioner’s professional duties or prohibit the practitioner [or a podiatrist] from personally supplying the practitioner’s [or podiatrist’s] own patients with such [remedies as the practitioner or podiatrist may desire within the course of the practitioner’s or podiatrist’s professional practice only.] prescription drugs if the prescription drugs fall within the practitioner’s scope of authorized practice.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

A Bill for an Act Relating to Uniform Licensing Requirements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 436B-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An application [may] shall be considered to be abandoned if it is not completed and the required documents and other information are not submitted to the department within [one year from the date first filed.] two years from the last date documents or information were requested; provided that the licensing authority may extend this time period by rule. The licensing authority shall not be required to act on any abandoned application, and the application may be [returned or] destroyed by the licensing authority or its delegate.”

SECTION 2. Section 436B-10, Hawaii Revised Statutes, is amended to read as follows:

“**§436B-10 Application and requirements for licensure.** (a) Application for a license shall be made under oath on [a] an application form to be furnished by the licensing authority. [The form may require the applicant to provide the following:] An applicant shall provide the following information on the application form:

- (1) The applicant's legal name;
- (2) [A statement] Affirmation that the applicant is beyond the age of majority;
- (3) The applicant's current residence, business[, and mailing addresses[;], and phone numbers;
- (4) The applicant's social security number[;] if the licensing authority is authorized by federal law to require the disclosure;
- (5) The date and place of any conviction of a penal crime directly related to the profession or vocation in which the applicant is applying for licensure, unless the conviction has been expunged or annulled, or is otherwise precluded from consideration by section 831-3.1; [and]
- (6) Proof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States;
- (7) Disclosure of similar licensure in any state or territory;
- (8) Disclosure of disciplinary action by any state or territory against any license held by the applicant; and
- [(6)] (9) Any other information the licensing authority may require to investigate the applicant's qualifications for licensure.

Failure to provide the above information and pay the required fees shall be grounds to deny the application for licensure.

(b) In addition to any other requirements provided by law, all applicants shall be:

- (1) Beyond the age of majority; and
- (2) A United States citizen, a United States national, or an alien authorized to work in the United States.”

SECTION 3. Section 436B-11, Hawaii Revised Statutes, is amended to read as follows:

“§436B-11 [License] Additional licensure requirements. In addition to any other requirements provided by law, the licensing authority may also require by rule that the applicant [to] provide the following:

- [(1) A complete application with every applicable fee;
- (2) Attestation that the applicant is beyond the age of majority prior to the date of the application; in]
- (1) In the case of a partnership applicant, each general partner shall attest that each partner is beyond the age of majority;
- [(3)] (2) Proof that the applicant is competent, trustworthy, fair, and has financial integrity; and
- [(4)] (3) Proof that the applicant has satisfied all applicable business registration requirements prior to applying for licensure[; and
- (5) Proof that the applicant is a United States citizen, United States national, or an alien authorized to work in the United States].”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 36

H.B. NO. 2204

A Bill for an Act Relating to Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 478-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [The provisions of this] This chapter (except for this section and section 478-3) shall not apply to any mortgage loan transaction wholly or partially secured by a guarantee or insurance or a commitment to insure issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapters I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code[.], the Small Business Act, Chapter 14A of Title 15 of the United States Code, and the Small Business Investment Act, Chapter 14B of Title 15 of the United States Code.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

A Bill for an Act Relating to Adoptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Currently, when a child from a foreign country is adopted, the adoptive parents must go through a three-step process in order for the child to receive a decree of adoption from Hawaii. The child must receive the necessary papers from the country in which it was born. The adoptive parents must then submit these papers to the United States Immigration and Naturalization Service for review and authorization to enter the country. Then there must be a hearing by the Hawaii courts in order to receive the adoption decree. The legislature finds that in circumstances where the fitness of the adoptive parents and other issues that the Hawaii courts review in the state hearing are reviewed by the proper authorities in the foreign country as well as the United States Immigration and Naturalization Service, the hearing in Hawaii is redundant and a waste of the State's resources as well as the resources and time of the adoptive parents.

The purpose of this Act is to allow the family court, in circumstances where the issues it would have reviewed have received full consideration by the foreign country and the United States Immigration and Naturalization Service, to waive the requirement of a hearing before issuing an adoption decree for children adopted from foreign countries.

SECTION 2. Section 578-8, Hawaii Revised Statutes, is amended to read as follows:

**“§578-8 Hearing; investigation; decree.** (a) No decree of adoption shall be entered unless a hearing has been held at which the petitioner or petitioners, and any legal parent married to a petitioner, and any subject of the adoption whose consent is required, have personally appeared before the court, unless expressly excused by the court. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the court may enter a decree of adoption if it is satisfied (1) that the individual is adoptable under sections 578-1 and 578-2, (2) that the individual is physically, mentally, and otherwise suitable for adoption by the petitioners, (3) that the petitioners are fit and proper persons and financially able to give the individual a proper home and education, if the individual is a child, and (4) that the adoption will be for the best interests of the individual, which decree shall take effect upon such date as may be fixed therein by the court, such date to be not earlier than the date of the filing of the petition and not later than six months after the date of the entry of the decree.

(b) Before entering the decree, the court shall notify the director of human services of the pendency of such petition for adoption and allow a reasonable time for the director to make such investigation as the director may deem proper as to the fitness of the petitioners to adopt the individual, however, the physical disability of the petitioners shall not of itself be determinant of unfitness for purposes of this section, and as to whether the best interest of the individual will be subserved by the adoption; provided that the court may, if it finds that the best interests of the individual to be adopted so require, by written order waive the requirement for notification and investigation above set forth, and enter its decree solely on the basis of the evidence adduced at the hearing. The director shall have the right to intervene in any adoption proceeding for the purpose of protecting the interests of the individual to be adopted or of any legal parent of the individual, and shall have the same rights of appeal as any party to the proceeding. The attorney general, upon the



request of the director, shall represent the director in any such proceeding. The director, when notified as above set forth, or when the director has intervened without notification, shall make a report to the court within the time required, reporting the facts disclosed and the director's recommendation; provided that the director, if the director determines that the best interests of the individual to be adopted will be served thereby, may refer any such notification to a child placing organization approved by the department under section 346-17, and the report and recommendation of such organization, when forwarded by the director, shall be considered by the court in lieu of a report and recommendation by the director. If the court determines that any such report discloses facts adverse to the petitioners or indicates that the best interests of the individual to be adopted will not be subserved by the proposed adoption, it shall thereupon give notice of the determination to the petitioners and afford them a reasonable opportunity to rebut the report.

(c) In cases where a child is adopted from a foreign country and is brought into the State, the court, in its discretion, may dispense with a hearing upon receipt of a sworn affidavit, ex-parte, from the adoptive parents requesting that the hearing be dispensed with, and upon a finding that the issues it would have reviewed have received full consideration by the country from which the child was adopted and the United States Immigration and Naturalization Service."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 38

H.B. NO. 2275

A Bill for an Act Relating to Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to bring Hawaii's laws regarding the manufacture of malt beverages into conformity with other jurisdictions, such as California, Colorado, and Oregon.

SECTION 2. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (o) to read as follows:

“(o) Class 14. Brewpub licenses. A brewpub licensee:

- (1) Shall manufacture not more than [three] five thousand barrels of malt beverages on the licensee's premises during the license year;
- (2) May sell malt beverages manufactured on the licensee's premises for consumption on the premises;
- (3) May sell malt beverages[, not more than fifteen per cent of the licensee's total production,] manufactured by the licensee in brewery-sealed packages to class 3, wholesale dealer licensees; [and]

- (4) May sell intoxicating liquor, regardless of source, to consumers for consumption on the licensee's premises; provided that the premises is owned and operated by the licensee.

The categories of establishments shall be as follows:

- (A) A standard bar; or  
(B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 39

S.B. NO. 927

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-304, Hawaii Revised Statutes, is amended to read as follows:

**"§412:9-304 Consumer loan charges.** Unless specifically authorized in this article or by rule adopted by the commissioner, a financial services loan company shall only have the right to charge, contract for, and receive in advance or otherwise the following charges in addition to the interest permitted in section 412:9-302 for a consumer loan made under this article:

- (1) Late charges under the consumer loan on any delinquent installment, or portion of the delinquent installment where there has been no extension or deferment. Delinquency occurs when the installment or payment is not paid on the due date. Late charges shall not be collected more than once for the same delinquent installment. Late charges on any consumer loan shall not exceed five per cent of the delinquent installment, and late charges shall not be assessed on any consumer loan after acceleration of the maturity of the consumer loan;
- (2) A prepayment penalty as provided in the note or other form of contract signed by the borrower on any amount which is voluntarily prepaid; provided that:
  - (A) The prepayment penalty on any consumer loan with a term of five years or more that is primarily secured by an interest in real property and in which the interest rate is computed under section 412:9-301(2) and which is prepaid within five years of the date of the loan shall be computed on the amount prepaid in excess of twenty per cent of the original principal amount of the loan in any twelve-month period measured from the date of the loan or from any anniversary of the loan date. The prepayment penalty may be charged only on amounts in excess of the twenty per cent amount in each twelve-month period in such five-year period and shall not exceed six months of interest at the maximum interest rate permissible for the consumer loan by law on the amount prepaid;

- (B) The prepayment penalty shall not be charged on a consumer loan that is a variable rate or open-end loan, on a precomputed loan on which interest is computed under section 412:9-301(1), or on loans which are not secured by real estate; and
- (C) The prepayment penalty shall not be charged on any amount which is paid because of the exercise of any acceleration provision by the financial services loan company;
- (3) Extension or deferment charges on any payment on account of the principal balance of a loan, or a portion thereof, which is due on a particular date and which is extended or deferred to a later date by mutual agreement. The charges shall be based upon the amount so extended or deferred at interest not exceeding that permitted upon the original loan under section 412:9-302, for the actual period of the extension or deferment. The extension or deferment charges may be collected either in advance at the commencement of the period of extension or deferment or otherwise as agreed. The term and conditions of the extension or deferment, including the amount of the consumer loan so extended or deferred, and the period of, and the charge for the extension or deferment shall be set forth in writing and signed by the borrower with one copy given to the borrower;
- (4) Nonrefundable discount, points, loan fees, and loan origination charges, provided that:
  - (A) Discount, points, loan fees, and loan origination charges shall not be charged on precomputed loans on which interest is computed under section 412:9-301(1); and
  - (B) The nonrefundable discount, points, loan fees, and loan origination charges shall be permitted on consumer loans on which interest is computed under section 412:9-301(2) only if the consumer loan is secured by an interest in real property. Provided further[,], that except for open-end loans, the nonrefundable discount, points, loan fees, and origination charges shall be included as interest to determine compliance of the loan with the interest rate limits under section 412:9-302(b)(2) when the consumer loan is made.

The nonrefundable discount, points, loan fees, and loan origination charges shall be fully earned on the date the loan commitment agreement or other form of contract is executed and the commitment fee paid or on the date the consumer loan is made and shall not be subject to refund on prepayment of the consumer loan;

- (5) Fees, charges, and expenses reasonably related to the consumer loan transaction which are retained by the financial services loan company, provided that such fees are bona fide and reasonable and not unfair or deceptive. Such fees are limited to notary fees, appraisal fees, appraisal review fees, [and any other fees as adopted by the commissioner pursuant to rule;] and attorney's fees for preparing deeds, promissory notes, mortgages, and reconveyance, settlement, and similar documents, on a consumer loan which is secured by an interest in real property. The commissioner may adopt, pursuant to rule, any fees in addition to those enumerated in this subsection;
- (6) Fees, charges, and expenses reasonably related to the consumer loan transaction which are actually paid to third parties, no portion of which inures to the benefit of the financial services loan company. Such fees, charges, and expenses may include, but are not limited to, charges for credit reports, actual taxes, and fees charged by a governmental agency

for recording, filing, or entering of record any security agreements or instruments including the partial or complete release of such security agreements or instruments, insurance premiums of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z of the Board of Governors of the Federal Reserve System; provided that the insurance premium shall not exceed \$4, appraisal fees, appraisal review fees, title report or title insurance fees, mortgage reserve funds to be used for payment of taxes, insurance, lease rent and condominium assessments, and attorney's fees and expenses for documentation of the consumer loan or for the collection of any consumer loan in default."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 40

S.B. NO. 1381

A Bill for an Act Relating to Uniform Commercial Code Article 3.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 490, Hawaii Revised Statutes, is amended by adding to article 3 a new section to be designated and to read as follows:

**"§490:3-312 Lost, destroyed, or stolen cashier's check, teller's check, or certified check.** (a) In this section:

- (1) "Check" means a cashier's check, teller's check, or certified check.
- (2) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.
- (3) "Declaration of loss" means a written statement, made under penalty of perjury, to the effect that (i) the declarer lost possession of a check, (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check, (iii) the loss of possession was not the result of a transfer by the declarer or a lawful seizure, and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.
- (4) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is

paid, and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

- (1) The claim becomes enforceable at the later of (i) the time the claim is asserted, or (ii) the ninetieth day following the date of the check, in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance, in the case of a certified check.
- (2) Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.
- (3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.
- (4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to section 490:4-302(a)(1), payment to the claimant discharges all liability of the obligated bank with respect to the check.

(c) If the obligated bank pays the amount of a check to a claimant under subsection (b)(4) and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid, or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

(d) If a claimant has the right to assert a claim under subsection (b) and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or section 490:3-309."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 41**

S.B. NO. 1747

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Before a landlord terminates a month-to-month tenancy where the landlord contemplates voluntary demolition of the dwelling units, conversion to a condominium property regime under chapter 514A, or changing the use of the building to transient vacation rentals, the landlord shall provide notice to the tenant at least one hundred twenty days in advance of the anticipated demolition or anticipated termination, and shall comply with the provisions relating to conversions

provided in section 514A-105, if applicable. If notice is revoked or amended and reissued, the notice period shall begin from the date it was reissued or amended. Any notice provided, revoked, or amended and reissued shall be in writing. When the landlord provides notification of termination pursuant to this subsection, the tenant may vacate at any time within the one-hundred-twenty-day period between the notification and the termination date, but the tenant shall notify the landlord of the date the tenant will vacate the dwelling unit and shall pay a prorated rent for that period of occupation."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 42

S.B. NO. 1748

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-64, Hawaii Revised Statutes, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) If the landlord fails to perform in the manner specified in subsection (a), the tenant may:

- (1) Immediately do or have done the necessary repairs in a [workmanlike] competent manner, and upon submission to the landlord of receipts amounting to at least the sum deducted, deduct from the tenant's rent not more than [\$300] \$500 for the tenant's actual expenditures for work done to correct the health or safety violation; or
- (2) Submit to the landlord, at least five business days before having the work done, written signed estimates from each of two qualified [workmen] workers and proceed to have done the necessary work by the [workman] worker who provides the lower estimate; provided that the landlord may require in writing a reasonable substitute [workman] worker or substitute materials, and upon submission to the landlord of receipts amounting to at least the sum deducted, the tenant may deduct [\$300] \$500 or one month's rent, whichever is greater, for the tenant's actual expenditures for work done to correct the health or safety violation.

(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within twelve business days for reasons beyond the landlord's control the landlord shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence. In any case involving repairs, except those required due to misuse by the tenant, to electrical, plumbing, or other facilities, including major appliances provided by the landlord pursuant to the rental agreement, necessary to provide sanitary and habitable living conditions, the [landord] landlord shall commence repairs within three business days of receiving

oral or written notification, with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within three business days for reasons beyond the landlord's control the landlord shall inform the tenant of the reasons for the delay and set a reasonable tentative date on which repairs will commence.

(d) If the landlord fails to perform in the manner specified in subsection (c), the tenant may immediately do or have done the necessary work in a [workmanlike] competent manner and upon submission to the landlord of receipts amounting to at least the sums deducted, deduct from the tenant's rent not more than [\$300] \$500 for the tenant's actual expenditures for work done to correct the defective condition."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 43

S.B. NO. 1912

A Bill for an Act Relating to the Residential Landlord Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

**"§521-7 Exclusions from application of chapter.** Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services;
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii;
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser;
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization;
- (5) Transient occupancy on a day-to-day basis in a hotel or motel;
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord[;] or occupancy for a period of up to four years subsequent thereto, pursuant to a plan for the transfer of the dwelling unit or the property of which it is a part to the occupant;
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease;
- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner's rights;

- (9) Occupancy in a homeless facility, or any other program for the homeless authorized under chapter 358D;
- (10) Residence or occupancy in a public housing complex or shelter directly controlled, owned, or managed by the Hawaii housing authority; or
- (11) Residence or occupancy in a transitional facility for abused family or household members.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 24, 1995.)

## ACT 44

H.B. NO. 552

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-304, Hawaii Revised Statutes, is amended to read as follows:

**“§412:9-304 Consumer loan charges.** Unless specifically authorized in this article or by rule adopted by the commissioner, a financial services loan company shall only have the right to charge, contract for, and receive in advance or otherwise the following charges in addition to the interest permitted in section 412:9-302 for a consumer loan made under this article:

- (1) Late charges under the consumer loan on any delinquent installment, or portion of the delinquent installment where there has been no extension or deferment. Delinquency occurs when the installment or payment is not paid on the due date. Late charges shall not be collected more than once for the same delinquent installment. Late charges on any consumer loan shall not exceed five per cent of the delinquent installment, and late charges shall not be assessed on any consumer loan after acceleration of the maturity of the consumer loan;
- (2) A prepayment penalty as provided in the note or other form of contract signed by the borrower on any amount [which] that is voluntarily prepaid; provided that:
  - (A) The prepayment penalty on any consumer loan with a term of five years or more that is primarily secured by an interest in real property and in which the interest rate is computed under section 412:9-301(2) and which is prepaid within five years of the date of the loan shall be computed on the amount prepaid in excess of twenty per cent of the original principal amount of the loan in any twelve-month period measured from the date of the loan or from any anniversary of the loan date. The prepayment penalty may be charged only on amounts in excess of the twenty per cent amount in each twelve-month period in such five-year period and shall not exceed six months of interest at the maximum interest rate permissible for the consumer loan by law on the amount prepaid;
  - (B) The prepayment penalty shall not be charged on a consumer loan that is a variable rate or open-end loan, on a precomputed loan on



which interest is computed under section 412:9-301(1), or on loans [which] that are not secured by real estate; and

- (C) The prepayment penalty shall not be charged on any amount [which] that is paid because of the exercise of any acceleration provision by the financial services loan company;
- (3) Extension or deferment charges on any payment on account of the principal balance of a loan, or a portion thereof, [which] that is due on a particular date [and which] but is extended or deferred to a later date by mutual agreement. The charges shall be based upon the amount so extended or deferred at interest not exceeding that permitted upon the original loan under section 412:9-302, for the actual period of the extension or deferment. The extension or deferment charges may be collected either in advance at the commencement of the period of extension or deferment or otherwise as agreed. The term and conditions of the extension or deferment, including the amount of the consumer loan so extended or deferred, and the period of, and the charge for the extension or deferment shall be set forth in writing and signed by the borrower with one copy given to the borrower;
- (4) Nonrefundable discount, points, loan fees, and loan origination charges, provided that:
  - (A) Discount, points, loan fees, and loan origination charges shall not be charged on precomputed loans on which interest is computed under section 412:9-301(1); and
  - (B) The nonrefundable discount, points, loan fees, and loan origination charges shall be permitted on consumer loans on which interest is computed under section 412:9-301(2) [only] if the consumer loan is secured by an interest in real property[.] or if the consumer loan is made to a lessee of land subject to the Hawaiian Homes Commission Act and the loan, but for the provisions of the Act, would be secured by a mortgage on the leasehold interest. Provided further[,], that, except for open-end loans, the nonrefundable discount, points, loan fees, and origination charges shall be included as interest to determine compliance of the loan with the interest rate limits under section 412:9-302(b)(2) when the consumer loan is made.

The nonrefundable discount, points, loan fees, and loan origination charges shall be fully earned on the date the loan commitment agreement or other form of contract is executed and the commitment fee paid or on the date the consumer loan is made and shall not be subject to refund on prepayment of the consumer loan;

- (5) Fees, charges, and expenses reasonably related to the consumer loan transaction [which] that are retained by the financial services loan company[.]; provided that [such] the fees are bona fide and reasonable and not unfair or deceptive. [Such] These fees are limited to notary fees, appraisal fees, appraisal review fees, and any other fees as adopted by the commissioner pursuant to rule;
- (6) Fees, charges, and expenses reasonably related to the consumer loan transaction [which] that are actually paid to third parties, no portion of which inures to the benefit of the financial services loan company. [Such] The fees, charges, and expenses may include, but are not limited to, charges for credit reports, actual taxes and fees charged by a governmental agency for recording, filing or entering of record any security agreements or instruments including the partial or complete release of such security agreements or instruments, insurance pre-

miums of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z of the Board of Governors of the Federal Reserve System; provided that the insurance premium shall not exceed \$4, appraisal fees, appraisal review fees, title report or title insurance fees, mortgage reserve funds to be used for payment of taxes, insurance, lease rent and condominium assessments, and attorney's fees and expenses for documentation of the consumer loan or for the collection of any consumer loan in default."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 45

H.B. NO. 556

A Bill for an Act Relating to Financial Services Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:9-305, Hawaii Revised Statutes, is amended to read as follows:

**"§412:9-305 Open-end consumer loans.** (a) Open-end consumer loans made under the authority of this article shall be subject to the following special restrictions:

- (1) A financial services loan company shall not compound interest on any open-end consumer loan by adding any unpaid interest to the unpaid principal balance of the open-end loan. However, the unpaid principal balance may include charges other than interest and late charges;
- (2) Regardless of the interest computation method used in each billing cycle under an open-end loan agreement, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower, and deducting all payments and other credits made or received that day;
- (3) If credit life insurance or credit disability insurance is provided, the additional charge for the insurance shall be calculated in each billing cycle by applying the current monthly premium rate (which may be calculated daily), as approved by the insurance commissioner, to the entire outstanding balances, or to as much of the outstanding balances that the insurance covers, using the same method used for the calculation of loan interest. A financial services loan company shall not be obligated to advance to the insurer any premiums for the insurance on a borrower who is delinquent in making the required minimum payments on the loan if one or more of the payments is past due for ninety days or more. However, the financial services loan company shall advance to the insurer the amounts required to keep the insurance in force during the ninety-day period. The advanced amounts may be debited to the borrower's open-end account; and

- (4) A financial services loan company may retain any security interest in real or personal property securing the open-end loan until the open-end loan is terminated.

(b) A financial services loan company may impose charges on an open-end consumer loan for:

- (1) Participation in an open-end loan account, whether assessed on an annual, periodic, or other basis; and  
(2) Payment of items that overdraw an open-end loan account.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 46

H.B. NO. 775

A Bill for an Act Relating to Endowment Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT PART I. GENERAL PROVISIONS

§ -1 **Short title.** This chapter may be cited as the “Uniform Management of Institutional Funds Act”.

§ -2 **Purpose.** (a) The legislature finds that:

- (1) Privately supported educational, religious, and charitable organizations perform essential and needed services in the State of Hawaii;
- (2) Uncertainty regarding legal restrictions on the management, investment, and expenditure of endowment funds of these organizations may preclude obtaining the highest available return on endowment funds; and
- (3) These organizations, their officers, directors, governors and trustees, and the citizens of the State of Hawaii will benefit from removal of this uncertainty and by permitting endowment funds to be invested for the long-term goals of achieving growth and maintaining purchasing power without adversely affecting the availability of funds for current expenditure.

(b) The purpose of this chapter is to provide guidelines for the management, investment, and expenditure of endowment funds of educational, religious, and charitable organizations in order to eliminate the uncertainty regarding legal restrictions on the management, investment, and expenditure of these funds and thus enable these organizations to maximize their resources for the benefit of the citizens of the State of Hawaii and the State’s charitable needs.

§ -3 **Definitions.** As used in this chapter:

“Community foundation” means a community foundation or community trust recognized as exempt from federal income tax and referred to in section 170(c) of the Internal Revenue Code of 1986, as amended, and which meets the single entity requirements of United States Treasury Regulations sections 1.170A-9(e)(10-14) adopted thereunder.

“Endowment fund” means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

“Gift instrument” means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

“Governing board” means the body responsible for the management of an institution or of an institutional fund.

“Historic dollar value” means the aggregate fair value in dollars of:

- (1) An endowment fund at the time it became an endowment fund;
- (2) Each subsequent donation to the fund at the time it is made; and
- (3) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

The determination of historic dollar value made in good faith by the institution shall be conclusive.

“Institution” means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

“Institutional fund” means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include:

- (1) A fund held for an institution by a trustee that is not an institution, unless the fund is held exclusively for the benefit of a community foundation; or
- (2) A fund in which a beneficiary that is not an institution has an interest other than possible rights that could arise upon violation or failure of the purposes of the fund.

#### § -4 Appropriation of appreciation; accumulation of income. (a)

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section -8.

(b) The governing board may accumulate so much of the annual net income of an endowment fund as is prudent under the standard established by section -8, and may hold any or all of the accumulated income in an income reserve for subsequent expenditure for the uses and purposes for which the endowment fund is established or may add any or all of the accumulated income to the principal of the endowment fund, as is prudent under this standard.

(c) This section does not limit the authority of the governing board to expend funds or accumulate net income and add the same to principal as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

#### § -5 Rule of construction. Section -4 does not apply if the applicable

gift instrument indicates the donor’s intention that net appreciation shall not be expended or that income shall not be accumulated and added to principal of an endowment fund. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or

authorization in the applicable gift instrument to use only “income”, “interest”, “dividends”, or “rents, issues or profits”, or “to preserve the principal intact” of a direction which contains other words of similar import. A restriction upon the accumulation of income or addition to principal of income may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to apply to the uses and purposes of the fund the “income”, “interest”, “dividends”, “currently expendable income”, or “rent, issues, or profits” or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this chapter.

**§ -6 Investment authority.** In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

- (1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;
- (2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;
- (3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and
- (4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

**§ -7 Delegation of investment management.** Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

- (1) Delegate to its committees, officers, or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;
- (2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, to act in place of the board in investment and reinvestment of institutional funds; and
- (3) Authorize the payment of compensation for investment advisory or management services.

**§ -8 Standard of conduct.** In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

§ -9 **Release of restrictions on use or investment.** (a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of the donor's death, disability, unavailability, or impossibility of identification, the governing board may petition in the name of the institution to the circuit court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. Unless the gift instrument specifically requires notice to other persons, only the attorney general shall be notified of the petition and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of cy pres.

§ -10 **Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

§ -11 **Uniformity of application and construction.** This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 47

H.B. NO. 896

A Bill for an Act Relating to Health Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 268, Session Laws of Hawaii 1991, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect upon its approval[, and shall be repealed on June 30, 1995]."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 48

H.B. NO. 1376

A Bill for an Act Relating to the Code of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:5-305, Hawaii Revised Statutes, is amended to read as follows:

**“§412:5-305 Permitted investments.** (a) To the extent specified herein, a bank may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States, including without limitation Federal Reserve Banks, the Government National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States, including without limitation Banks for Cooperatives, Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Financing Corporation, Resolution Funding Corporation, Student Loan Marketing Association, Tennessee Valley Authority, and the United States Postal Service; and
- (3) Quasi-United States governmental institutions including without limitation the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member, provided that the total amount invested in obligations of any one issuer shall not exceed twenty per cent of the bank's capital and surplus.

(b) To the extent specified herein, a bank may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified herein, a bank may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of such states, territories or possessions or by any foreign country or political subdivision of such country; provided, that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of any such government;
- (2) There has been no default in payment of either principal or interest on any of the general obligations of such government for a period of five years immediately preceding the date of the investment; and

(3) The total amount invested in such obligations of any one issuer by a bank shall not exceed twenty per cent of the bank's capital and surplus.

(d) To the extent specified herein, a bank may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided, that the aggregate amount invested by a bank under this subsection and subsection (e) in any one corporation shall not exceed twenty per cent of the bank's capital and surplus.

(e) To the extent specified herein, a bank may invest its own assets in securities of an investment grade. The term "investment grade" means notes, bonds, certificates of interest or participation, beneficial interests, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality, including without limitation those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the bank in its prudent banking judgment (which may be based in part upon estimates which it believes to be reliable). Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a bank under this subsection and subsection (d) in any one company or other issuer shall not exceed twenty per cent of the bank's capital and surplus.

(f) To the extent specified herein, a bank may purchase, hold, convey, sell or lease real or personal property as follows:

- (1) The real property in or on which the business of the bank is carried on, including its banking offices, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary to the accommodation of the bank's business, including but not limited to parking facilities, data processing centers, and real property held for future banking use where the bank in good faith expects to utilize the property as bank premises; provided, if the bank ceases to use any real property and improvements thereon for one of the foregoing purposes, it shall, within five years thereafter, sell the real property or cease to carry it or them as an asset; provided further, such property shall not without the approval of the commissioner exceed seventy-five per cent of the bank's capital and surplus;
- (2) Personal property used in or necessary to the accommodation of the bank's business, including but not limited to furniture, fixtures, equipment, vaults and safety deposit boxes. The bank's investment in furniture and fixtures shall not without the approval of the commissioner exceed twenty-five per cent of the bank's capital and surplus;
- (3) Personal property and fixtures which the bank acquires for purposes of leasing to third parties and such real property interests as shall be incidental thereto;
- (4) Such real property or tangible personal property as may come into its possession as security for loans or in the collection of debts; or as may be purchased by or conveyed to the bank in satisfaction of or on account of debts previously contracted in the course of its business, when such property was held as security by the bank; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85, including without limitation the reversionary interest in the real estate and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section any tangible personal property acquired by a bank pursuant to subsection (f)(4) shall be disposed of as soon as



practicable and shall not without the written consent of the commissioner be considered a part of the assets of the bank after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section any real property acquired by a bank pursuant to subsection (f)(4) shall be sold or exchanged for other real property by the bank within five years after title thereto has vested in it by purchase or otherwise, or within such further time as may be granted by the commissioner.

Any bank acquiring any real property in any manner other than provided by this section shall immediately, upon receiving notice from the commissioner, charge the same to profit and loss, or otherwise remove the same from assets, and when any loss impairs the capital and surplus of the bank the impairment shall be made good in the manner provided in this chapter.

(g) A bank may own or control the capital stock:

- (1) Of operating subsidiaries as set forth in this article;
- (2) Of a corporation organized and existing for the ownership of real or personal property used or which the bank in good faith expects to be used in the bank's business;
- (3) Of the Federal National Mortgage Association, the Student Loan Marketing Association, Federal Home Loan Mortgage Corporation or of any other corporation organized for substantially the same purposes; provided that this subsection shall be deemed to authorize subscription for as well as purchase of the stock;
- (4) Of small business investment companies operating under the Federal Small Business Investment Act of 1958;
- (5) Of bank service corporations, subject to the provisions of the Bank Service Corporation Act, 12 U.S.C. §§1861-1862;
- (6) Of a corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by such stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within such further time as may be granted by the commissioner;
- (7) Of an international banking corporation established pursuant to article 5A of this chapter or an Edge corporation or an Agreement corporation established or authorized pursuant to section 25a of the Federal Reserve Act, 12 U.S.C. §631; and
- (8) Of a captive insurance company incorporated under the laws of the United States, or any state or territory thereof, or the District of Columbia.

(h) To the extent specified herein, a bank may invest its own assets in limited partnerships formed to invest in residential properties which will qualify for the low income housing tax credit under section 42 of the Internal Revenue Code of 1986, as amended, and under chapters 235 and 241; provided that the total amount invested by a bank under this subsection in any one limited partnership shall not, without the prior approval of the Commissioner, exceed two per cent of the bank's capital and surplus and the aggregate amount invested under this subsection shall not, without the prior approval of the Commissioner, exceed five per cent of the bank's capital and surplus. In no case shall the aggregate amount invested by a bank under this subsection exceed ten per cent of the bank's capital and surplus."

SECTION 2. Section 412:6-306, Hawaii Revised Statutes, is amended to read as follows:

**"§412:6-306 Permitted investments.** (a) To the extent specified herein, a savings bank may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States, including without limitation Federal Reserve Banks, the Government National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States, including without limitation, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Financing Corporation, Resolution Funding Corporation, Student Loan Marketing Association, Tennessee Valley Authority, and the United States Postal Service; and
- (3) Quasi-United States governmental institutions including without limitation, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member, provided that the total amount invested in obligations of any one issuer shall not exceed twenty per cent of the savings bank's capital and surplus.

(b) To the extent specified herein, a savings bank may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified herein, a savings bank may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of such states, territories or possessions or by any foreign country or political subdivision of such country; provided, that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of any such government;
- (2) There has been no default in payment of either principal or interest on any of the general obligations of such government for a period of five years immediately preceding the date of the investment; and
- (3) The total amount invested in such obligations of any one issuer by a savings bank shall not exceed twenty per cent of the savings bank's capital and surplus.

(d) To the extent specified herein, a savings bank may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided, that the aggregate amount invested by a savings bank under this subsection and subsection (e) in any one corporation shall not exceed twenty per cent of the savings bank's capital and surplus.

(e) To the extent specified herein, a savings bank may invest its own assets in securities of an investment grade. The term "investment grade" means notes,

bonds, certificates of interest or participation, beneficial interest, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality, including without limitation those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the savings bank in its prudent judgment, which may be based in part upon estimates which it believes to be reliable. Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a savings bank under this subsection and subsection (d) in any one company or other issuer shall not exceed twenty per cent of the savings bank's capital and surplus.

(f) To the extent specified herein, a savings bank may purchase, hold, convey, sell or lease real or personal property as follows:

- (1) The real property in or on which the business of the savings bank is carried on, including its offices, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary to the accommodation of the savings bank's business, including but not limited to parking facilities, data processing centers, and real property held for future use where the savings bank in good faith expects to utilize the property as its premises; provided, if the savings bank ceases to use any real property and improvements thereon for one of the foregoing purposes, it shall, within five years thereafter, sell the real property or cease to carry it or them as an asset; provided further, such property shall not, without the approval of the commissioner, exceed seventy-five per cent of the savings bank's capital and surplus;
- (2) Personal property used in or necessary to the accommodation of the savings bank's business, including but not limited to furniture, fixtures, equipment, vaults and safety deposit boxes. The savings bank's investment in furniture and fixtures shall not, without the approval of the commissioner, exceed twenty-five per cent of the savings bank's capital and surplus;
- (3) Personal and real property which the savings bank acquires for the purpose of leasing to its subsidiaries and affiliates;
- (4) Such real property or tangible personal property as may come into its possession as security for loans or in the collection of debts, or as may be purchased by or conveyed to the savings bank in satisfaction of or on account of debts previously contracted in the course of its business when such property was held as security by the savings bank; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85, including without limitation the reversionary interest in the real estate and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section any tangible personal property acquired by a savings bank pursuant to subsection (f)(4) shall be disposed of as soon as practicable and shall not without the written consent of the commissioner, be considered a part of the assets of the savings bank after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section any real property acquired by a savings bank pursuant to subsection (f)(4) shall be sold or exchanged for other real property by the savings bank within five years after title thereto has vested in it by purchase or otherwise, or within such further time as may be granted by the commissioner.

Any savings bank acquiring any real property in any manner other than provided by this section shall immediately, upon receiving notice from the commis-

sioner, charge the same to profit and loss, or otherwise remove the same from the assets, and when any loss impairs the capital and surplus of the savings bank the impairment shall be made good in the manner provided in this chapter.

(g) A savings bank may own or control the capital stock:

- (1) Of operating subsidiaries as set forth in this article;
- (2) Of a corporation organized and existing for the ownership of real or personal property used or which the savings bank in good faith expects to be used in the savings bank's business;
- (3) Of the Federal National Mortgage Association, the Student Loan Marketing Association, Federal Home Loan Mortgage Corporation or of any other corporation organized for substantially the same purposes; provided that this subsection shall be deemed to authorize subscription for as well as purchase of the stock;
- (4) Of small business investment companies operating under the Federal Small Business Investment Act of 1958;
- (5) Of service corporations as set forth in this article;
- (6) Of a corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by such stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within such further time as may be granted by the commissioner; and
- (7) Of a captive insurance or association captive insurance company incorporated under the laws of the United States, or any state or territory thereof or the District of Columbia.

(h) To the extent specified herein, a savings bank may invest its own assets in limited partnerships formed to invest in residential properties which will qualify for the low income housing tax credit under section 42 of the Internal Revenue Code of 1986, as amended, and under chapters 235 and 241; provided that the total amount invested by a savings bank under this subsection in any one limited partnership shall not, without the prior approval of the Commissioner, exceed two per cent of the savings bank's capital and surplus and the aggregate amount invested under this subsection shall not, without the prior approval of the Commissioner, exceed five per cent of the savings bank's capital and surplus. In no case shall the aggregate amount invested by a savings bank under this subsection exceed ten per cent of the savings bank's capital and surplus."

SECTION 3. Section 412:7-306, Hawaii Revised Statutes, is amended to read as follows:

**"§412:7-306 Permitted investments.** (a) To the extent specified herein, a savings and loan association may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States, including without limitation Federal Reserve Banks, the Government National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States,

including without limitation, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Financing Corporation, Resolution Funding Corporation, Student Loan Marketing Association, Tennessee Valley Authority, and the United States Postal Service; and

- (3) Quasi-United States governmental institutions including without limitation, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions or regional development institutions in which the United States Government is a shareholder or contributing member, provided that the total amount invested in obligations of any one issuer shall not exceed twenty per cent of the savings and loan association's capital and surplus.

(b) To the extent specified herein, a savings and loan association may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified herein, a savings and loan association may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of such states, territories or possessions or by any foreign country or political subdivision of such country; provided, that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of any such government;
- (2) There has been no default in payment of either principal or interest on any of the general obligations of such government for a period of five years immediately preceding the date of the investment; and
- (3) The total amount invested in such obligations of any one issuer by a savings and loan association shall not exceed twenty per cent of the savings and loan association's capital and surplus.

(d) To the extent specified herein, a savings and loan association may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided, that the aggregate amount invested by a savings and loan association under this subsection and subsection (e) in any one corporation shall not exceed twenty per cent of the savings and loan association's capital and surplus.

(e) To the extent specified herein, a savings and loan association may invest its own assets in securities of an investment grade. The term "investment grade" means notes, bonds, certificates of interest or participation, beneficial interests, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality, including without limitation those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the savings and loan association in its prudent judgment, which may be based in part upon estimates which it believes to be reliable. Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a savings and loan association under this subsection and subsection (d) in any one company or other issuer shall not exceed twenty per cent of the savings and loan association's capital and surplus.

(f) To the extent specified herein, a savings and loan association may purchase, hold, convey, sell or lease real or personal property as follows:

- (1) The real property in or on which the business of the savings and loan association is carried on, including its offices, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary to the accommodation of the savings and loan association's business, including but not limited to parking facilities, data processing centers, and real property held for future use where the savings and loan association in good faith expects to utilize the property as its premises; provided, if the savings and loan association ceases to use any real property and improvements thereon for one of the foregoing purposes, it shall, within five years thereafter, sell the real property or cease to carry it or them as an asset; provided further, such property shall not, without the approval of the commissioner, exceed seventy-five per cent of the savings and loan association's capital and surplus;
- (2) Personal property used in or necessary to the accommodation of the savings and loan association's business, including but not limited to furniture, fixtures, equipment, vaults and safety deposit boxes. The savings and loan association's investment in furniture and fixtures shall not, without the approval of the commissioner, exceed twenty-five per cent of the savings and loan association's capital and surplus;
- (3) Personal and real property which the savings and loan association acquires for the purpose of leasing to its subsidiaries and affiliates;
- (4) Such real property or tangible personal property as may come into its possession as security for loans or in the collection of debts, or as may be purchased by or conveyed to the savings and loan association in satisfaction of or on account of debts previously contracted in the course of its business when such property was held as security by the savings and loan association; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85, including without limitation the reversionary interest in the real estate and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section any tangible personal property acquired by a savings and loan association pursuant to subsection (f)(4) shall be disposed of as soon as practicable and shall not, without the written consent of the commissioner, be considered a part of the assets of the savings and loan association after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section any real property acquired by a savings and loan association pursuant to subsection (f)(4) shall be sold or exchanged for other real property by the savings and loan association within five years after title thereto has vested in it by purchase or otherwise, or within such further time as may be granted by the commissioner.

Any savings and loan association acquiring any real property in any manner other than provided by this section shall immediately, upon receiving notice from the commissioner, charge the same to profit and loss, or otherwise remove the same from assets, and when any loss impairs the capital and surplus of the savings and loan association the impairment shall be made good in the manner provided in this chapter.

- (g) A savings and loan association may own or control the capital stock:
  - (1) Of operating subsidiaries as set forth in this article;
  - (2) Of a corporation organized and existing for the ownership of real or personal property used or which the savings and loan association in

good faith expects to be used in the savings and loan association's business;

- (3) Of the Federal National Mortgage Association, the Student Loan Marketing Association, Federal Home Loan Mortgage Corporation or of any other corporation organized for substantially the same purposes; provided that this subsection shall be deemed to authorize subscription for as well as purchase of the stock;
- (4) Of small business investment companies operating under the Federal Small Business Investment Act of 1958;
- (5) Of service corporations as set forth in this article;
- (6) Of a corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by such stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within such further time as may be granted by the commissioner; and
- (7) Of a captive insurance or association captive insurance company incorporated under the laws of the United States, or any state or territory thereof or [the] District of Columbia.

(h) To the extent specified herein, a savings and loan association may invest its own assets in limited partnerships formed to invest in residential properties which will qualify for the low income housing tax credit under section 42 of the Internal Revenue Code of 1986, as amended, and under chapters 235 and 241; provided that the total amount invested by a savings and loan association under this subsection in any one limited partnership shall not, without the prior approval of the Commissioner, exceed two per cent of the savings and loan association's capital and surplus and the aggregate amount invested under this subsection shall not, without the prior approval of the Commissioner, exceed five per cent of the savings and loan association's capital and surplus. In no case shall the aggregate amount invested by a savings and loan association under this subsection exceed ten per cent of the savings association's capital and surplus."

SECTION 4. Section 412:9-409, Hawaii Revised Statutes, is amended to read as follows:

**"§412:9-409 Permitted investments.** (a) To the extent specified herein, a depository financial services loan company may invest its own assets in securities and obligations of:

- (1) The United States government and any agency of the United States government whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States, including without limitation Federal Reserve Banks, the Government National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Small Business Administration;
- (2) United States government-sponsored agencies which are originally established or chartered by the United States government to serve public purposes specified by the Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States, including without limitation Banks for Cooperatives, Federal Agricultural Mortgage Corporation, Federal Farm Credit Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Financing Corporation, Resolution Funding Corporation,

Student Loan Marketing Association, Tennessee Valley Authority and the United States Postal Service; and

- (3) Quasi-United States governmental institutions, including without limitation the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, and other multilateral lending institutions in which the United States Government is a shareholder or contributing member, provided that the total amount invested in any one issuer shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(b) To the extent specified herein, a depository financial services loan company may invest its own assets in bonds, securities, or similar obligations issued by this State or any county of this State, through an appropriate agency or instrumentality.

(c) To the extent specified herein, a depository financial services loan company may invest its own assets in bonds or similar obligations issued by any state of the United States other than this State, the District of Columbia, or any territory or possession of the United States, by municipal governments of such states, territories or possessions, or by any foreign country or political subdivision of such country; provided, that:

- (1) The bond, note, or warrant has been issued in compliance with the constitution and laws of any such government;
- (2) There has been no default in payment of either principal or interest on any of the general obligations of such government for a period of five years immediately preceding the date of the investment; and
- (3) The total amount invested in such obligations of any one issuer by a depository financial services loan company shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(d) To the extent specified herein, a depository financial services loan company may invest its own assets in notes, bonds, and other obligations of any corporation which at the time of the investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided, that the aggregate amount invested by a depository financial services loan company under this subsection and subsections (e) and (g)(3) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(e) To the extent specified herein, a depository financial services loan company may invest its own assets in securities of an investment grade. The term "investment grade" means notes, bonds, certificates of interest or participation, beneficial interests, mortgage or receivable-related securities, and other obligations that are commonly understood to be of investment grade quality, including without limitation those securities that are rated within the four highest grades by any nationally-recognized rating service or unrated securities of similar quality as reasonably determined by the depository financial services loan company in its prudent judgment (which may be based in part upon estimates which it believes to be reliable). Investment grade does not include investments which are predominantly speculative in nature. The aggregate amount invested by a depository financial services loan company under this subsection and subsections (d) and (g)(3) in any one company or other issuer shall not exceed twenty per cent of the depository financial services loan company's capital and surplus. Subject to the approval of the commissioner, the twenty per cent limitation shall not apply to investment grade securities secured entirely by mortgage loans originated by the depository financial



services loan company. In approving any transaction under this section, the commissioner may impose any conditions to ensure the safety and soundness of the institution.

(f) To the extent specified herein, a depository financial services loan company may purchase, hold, convey, sell or lease real or personal property as follows:

- (1) The real property in or on which the business of the depository financial services loan company is carried on, other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary to the accommodation of the depository financial services loan company's business, including but not limited to parking facilities, data processing centers, and real property held for future use where the depository financial services loan company in good faith expects to utilize the property as depository financial services loan company premises; provided, if the depository financial services loan company ceases to use any real property and improvements thereon for one of the foregoing purposes, it shall, within five years thereafter, sell the real property or cease to carry it or them as an asset; provided further, such property shall not without the approval of the commissioner exceed seventy-five per cent of the depository financial services loan company's capital and surplus;
- (2) Personal property used in or necessary to the accommodation of the depository financial services loan company's business, including but not limited to furniture, fixtures, equipment, vaults and safety deposit boxes. The depository financial services loan company's investment in furniture and fixtures shall not without the approval of the commissioner exceed twenty-five per cent of the depository financial services loan company's capital and surplus;
- (3) Personal property and fixtures which the depository financial services loan company acquires for purposes of leasing to third parties and such real property interests as shall be incidental thereto;
- (4) Such real property or tangible personal property as may come into its possession as security for loans or in the collection of debts; or as may be purchased by or conveyed to the depository financial services loan company in satisfaction of or on account of debts previously contracted in the course of its business, when such property was held as security by the depository financial services loan company; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5 and 502-85, including without limitation the reversionary interest in the real property and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section any tangible personal property coming into the possession of any depository financial services loan company pursuant to [[]subsection (f)(4)][] shall be disposed of as soon as practicable and shall not, without the written consent of the commissioner, be considered a part of the assets of the depository financial services loan company after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section any real property acquired by a depository financial services loan company pursuant to [[]subsection (f)(4)][] shall be sold or exchanged for other real property by the depository financial services loan company within five years after title thereto has vested in it by purchase or otherwise, or within such further time as may be extended by the commissioner.

Any depository financial services loan company acquiring any real property in any manner other than provided by this section shall immediately, upon receiving notice from the commissioner, charge the same to profit and loss, or otherwise remove the same from the assets, and when any loss impairs the capital and surplus of the depository financial services loan company the impairment shall be made good in the manner provided in this chapter.

(g) To the extent specified herein, a depository financial services loan company may invest its own assets in capital stock of:

- (1) Service corporations as set forth in this article;
- (2) A corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by such stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within such further time as may be granted by the commissioner;
- (3) Companies listed on the New York or American stock exchanges or on National Association of Securities Dealers Automated Quotations; provided that the aggregate amount invested by a depository financial services loan company under this paragraph and subsections (d) and (e) in any one corporation shall not exceed twenty per cent of the depository financial services loan company's capital and surplus.

(h) To the extent specified herein, a depository financial services loan company may invest its own assets in limited partnerships formed to invest in residential properties which will qualify for the low income housing tax credit under section 42 of the Internal Revenue Code of 1986, as amended, and under chapters 235 and 241; provided that the total amount invested by a depository financial services loan company under this subsection in any one limited partnership shall not, without the prior approval of the Commissioner, exceed two per cent of the depository financial services loan company's capital and surplus and the aggregate amount invested under this subsection shall not, without the prior approval of the Commissioner, exceed five per cent of the depository financial services loan company's capital and surplus. In no case shall the aggregate amount invested by a depository financial services loan company under this subsection exceed ten per cent of the depository financial services loan company's capital and surplus."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 49

H.B. NO. 1502

A Bill for an Act Relating to Candidates' Financial Disclosure Statements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) The chief election officer, upon receipt of the nomination paper of any person seeking a state elective office, including the office of delegate to the constitutional convention, shall notify the ethics commission of the name of the candidate for state office and the date on which the person filed the nomination

paper. The ethics commission, upon the expiration of the time allowed for filing, shall release to the public a list of all candidates who have failed to file financial disclosure statements[.] and shall immediately assess a late filing penalty fee against those candidates of \$25 which shall be collected by the state ethics commission and deposited into the general fund. The ethics commission may investigate, initiate, or receive charges as to whether a candidate's financial disclosure statement discloses the financial interests required to be disclosed. After proceeding in conformance with section 84-31, the ethics commission may issue a decision as to whether a candidate has complied with section 84-17(f) and this decision shall be a matter of public record."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 50

H.B. NO. 1928

A Bill for an Act Relating to Charitable Organizations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467B-9, Hawaii Revised Statutes, is amended to read as follows:

**"§467B-9 Prohibited acts.** (a) No person, for the purpose of soliciting contributions from persons in the State, shall use the name of any other person except that of an officer, director, or trustee of the charitable organization by or for which contributions are solicited, without the written consent of the other persons.

A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or the latter person's name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

(b) No charitable organization, professional solicitor, or professional fundraising counsel soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(c) No person, in connection with any solicitation or sale, shall misrepresent or mislead anyone by any manner, means, practice, or device whatsoever, to believe that the solicitation or sale is being conducted on behalf of a charitable organization or that the proceeds of the solicitation or sale will be used for charitable purposes, if that is not the fact.

(d) No professional solicitor, and no agent, employee, independent contractor, or other person acting on behalf of the professional solicitor, shall solicit in the name of or on behalf of any charitable organization unless:

- (1) The professional solicitor has obtained the written authorization of two officers of the organization, which authorization shall bear the signature of the professional solicitor and the officers of the charitable organization and shall expressly state on its face the period for which it

is valid, which shall not exceed one year from the date of issuance, and has filed a copy of the written authorization with the director prior to the solicitation; and

- (2) The professional solicitor and any person who, for compensation, acts as an agent, employee, independent contractor, or otherwise on behalf of the professional solicitor carries a copy of the authorization while conducting solicitations, and exhibits it on request to persons solicited or police officers or agents of the department.

(e) No charitable organization, professional fund-raising counsel, or professional solicitor subject to this chapter shall use or exploit the fact of filing any statement, report, professional fund-raising counsel contracts, or professional solicitor contracts or other documents or information required to be filed under this chapter or with the department so as to lead the public to believe that the filing in any manner constitutes an endorsement or approval by the State of the purposes or goals for the solicitation by the charitable organization, professional fund-raising counsel, or professional solicitor; provided that the use of the following statement shall not be deemed a prohibited exploitation: "Information regarding this organization has been filed<sup>1</sup> with State of Hawaii department of commerce and consumer affairs. Filing does not imply endorsement or approval of the organization or the public solicitation for contributions."

(f) No person, while soliciting, shall impede or obstruct, with the intent to physically inconvenience the general public or any member thereof in any public place or in any place open to the public.

(g) No person shall submit for filing on behalf of any charitable organization, professional fund-raising counsel, or professional solicitor, any statement, financial statement, report, attachment, or other information to be filed with the department that contains information, statements or omissions that are false or misleading.

(h) No person shall solicit contributions from persons in the State or otherwise operate in the State as a charitable organization, an exempt charitable organization, professional fund-raising counsel, professional solicitor, or commercial co-venturer unless the person has filed the information required by this chapter with the department in a timely manner.

(i) No person shall aid, abet, or otherwise permit any persons to solicit contributions from persons in the State unless the person soliciting contributions has complied with the requirements of this chapter.

(j) No person shall fail to file the information and statements required by this chapter or fail to provide any information demanded by the director pursuant to this chapter in a timely manner.

(k) No person shall employ in any solicitation or collection of contributions for a charitable organization, any device, scheme, or artifice to defraud or obtain money or property by means of any false, deceptive, or misleading pretense, representation, or promise.

(l) No person, in the course of any solicitation, shall represent that funds collected will be used for a particular charitable purpose, or particular charitable purposes, if the funds solicited are not used for the represented purposes.

(m) No person shall receive compensation from a charitable organization for obtaining moneys or bequests for that charitable organization if that person has also received compensation for advising the donor to make the donation; provided that compensation may be received if the person obtains the written consent of the donor to receive compensation from the charitable organization.

(n) No person, after January 1, 1995, shall sell, license, offer to trade, or offer to lease, any list of donors that was obtained from the solicitation of persons to contribute to any charitable organization unless all listed donors have been informed

of their right to be deleted from the list and the person has procedures in place to delete the names of donors who ask to be deleted.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

Notes

1. Prior to amendment “the” appeared here.
2. No underscored material.

ACT 51

H.B. NO. 1929

A Bill for an Act Relating to the Definition of Capital of a Financial Institution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:1-109, Hawaii Revised Statutes, is amended by amending the definition of “capital” to read:

““Capital” means: (1) the aggregate par value or other amount received and allocated to the issued and outstanding capital stock of a financial institution; or (2) the total amount of a mutual savings and loan association or a credit union’s outstanding and unimpaired membership shares or share accounts.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

ACT 52

H.B. NO. 1930

A Bill for an Act Relating to Consent Order of Removal or Prohibition for Any Financial Institution-Affiliated Party.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:2-309, Hawaii Revised Statutes, is amended to read as follows:

“**§412:2-309 Consent order of removal or prohibition.** Any institution-affiliated party may waive its rights to a hearing on any notice of charges by stipulating and consenting to the issuance of a permanent removal or prohibition order or by stipulating and consenting to the conversion of a temporary suspension order into a permanent removal or prohibition order. Any permanent removal or prohibition order issued by consent shall be effective as of the date specified therein and shall remain effective until modified or terminated by the commissioner.”

SECTION 2. New statutory material is underscored.

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SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 53

H.B. NO. 1932

A Bill for an Act Relating to Submissions to the Commissioner of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:3-112, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the commissioner determines that any report is inadequate, the report shall be returned to the financial institution, with directions to rectify the inadequacies within the time specified by the commissioner, which shall not be longer than thirty days[.]; provided that the commissioner may, for good cause shown, grant a reasonable extension of not more than forty-five days for making and filing such report.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 54

H.B. NO. 1933

A Bill for an Act Relating to Clarifying the Requirements of the Code of Financial Institutions as it Relates to the Hawaii Business Corporation Act in Conversion, Merger, or Consolidation Situations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:3-606, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Upon the effective date of the conversion as determined under federal law, the institution’s state charter or license shall terminate without further notice, and the institution shall cease to be regulated by the commissioner. Within ten days after receipt of the federal charter, license, certificate, or other approval, the resulting financial institution shall deliver a copy thereof to the commissioner. The resulting financial institution shall also file with the director of commerce and consumer affairs a confirmation in writing by the commissioner of the date and time of the conversion, together with the appropriate filing fee pursuant to chapter 415.”

SECTION 2. Section 412:3-607, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) The commissioner may require notice to be given to the public as may [seem] be deemed appropriate. The commissioner may conduct an examination of the institution as provided under article 2, part II. The cost of any examination shall be assessed against and paid by the institution pursuant to section 412:2-105.

(d) The charter shall be granted only if the commissioner is satisfied that the granting of the charter will not impair the safety or soundness of the financial institution or any other financial institution, and that the applicant meets all the requirements set forth in this chapter for the type of financial institution for which the application has been filed. The requirements shall include, but not be limited to, the appropriate location of offices, capital structure, business experience, [and] the character of its executive officers and directors[.], and compliance with all applicable provisions of chapter 415. The director of commerce and consumer affairs shall not file the articles of incorporation until the application for a charter to engage in business as a Hawaii financial institution shall have been approved by the commissioner in writing. The commissioner may impose any restrictions and conditions on the operation of the resulting financial institution as the commissioner deems appropriate and consistent with federal law.

(e) The conversion shall be effective [upon the effective date of the new charter granted by the commissioner] upon the filing of articles of incorporation by the director of commerce and consumer affairs after all provisions of this section and applicable federal law have been complied with in full.”

SECTION 3. Section 412:3-608, Hawaii Revised Statutes, is amended by amending subsections (d) and (e)<sup>1</sup> to read as follows:

“(d) The commissioner may require notice to be given to the public as may [seem] be deemed appropriate. The commissioner may conduct an examination of the institution as provided under article 2, part II. The cost of any examination shall be assessed against and paid by the institution pursuant to section 412:2-105.

(e) The charter or license shall be granted only if the commissioner is satisfied that the granting of the charter or license will not impair the safety or soundness of the financial institution or any other financial institution, and that the applicant meets all the requirements set forth in this chapter for the type of financial institution for which the application has been filed. The requirements shall include, but not be limited to, the appropriate location of offices, capital structure, business experience, [and] the character of its executive officers and directors[.] and compliance with all applicable provisions of chapter 415. If the resulting Hawaii financial institution is a new corporation to be formed under chapter 415, the director of commerce and consumer affairs shall not file the articles of incorporation until the application for a charter to engage in the business of the type of financial institution to which it will convert shall have been approved by the commissioner in writing. The commissioner may impose any restrictions and conditions on the operation of the resulting financial institution as the commissioner deems appropriate and consistent with federal law.

(f) [The] If the resulting Hawaii financial institution is an existing corporation formed under chapter 415, the conversion shall be effective upon the effective date of the new charter or license granted by the commissioner after all provisions of this section and of federal law shall have been complied with in full. If the resulting Hawaii financial institution is a new corporation to be formed under chapter 415, the effective date of the new charter or license shall be the date of filing of the articles of incorporation by the director of commerce and consumer affairs.”

SECTION 4. Section 412:3-609, Hawaii Revised Statutes, is amended by amending subsections (b), (c), (d), and (e) to read as follows:

“(b) Any merger or consolidation of Hawaii stock financial institutions shall be effected pursuant to the procedures, conditions, and requirements for, and with the effect of, the merger or consolidation of two or more corporations pursuant to chapter 415; except that the vote by the shareholders of each of the participating institutions to approve the plan of merger or consolidation shall satisfy the requirements of section 412:3-604 and that the director of commerce and consumer affairs shall not file the articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner[.] in writing.

(c) One or more federal financial institutions whose operations are conducted principally in this State and one or more Hawaii financial institutions may be merged or consolidated, with the federal financial institution, the Hawaii financial institution or a new consolidated financial institution being the resulting institution, if the merger or consolidation is permitted by federal law. The federal financial institution shall comply with all requirements, conditions and limitations imposed by federal law or regulation with respect to the merger or consolidation. The Hawaii financial institution shall comply with all of the provisions of this chapter and chapter 415, except that the vote by shareholders or members of the Hawaii financial institution to approve the plan of merger or consolidation shall satisfy the requirements of section 412:3-604[, and that if the resulting institution is a Hawaii financial institution, the director of commerce and consumer affairs shall not file articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner]. The resulting financial institution shall file with the director of commerce and consumer affairs a confirmation in writing by the commissioner of the date and time of the merger or consolidation, together with the appropriate filing fee pursuant to chapter 415.

(d) One or more financial institutions chartered or licensed under the laws of or whose operations are conducted principally in any state other than Hawaii, in any possession or territory of the United States or in any foreign country and one or more Hawaii financial institutions may be merged or consolidated, but only where the financial institution resulting from any merger or consolidation pursuant to this subsection is chartered or licensed under the laws of and conducts its operations principally in this State or is a federal financial institution which conducts its operations principally in this State. The financial institution chartered or licensed under the laws of any state other than Hawaii, any possession or territory of the United States or any foreign country shall comply with all requirements, conditions and limitations imposed by the law of the jurisdiction under which the financial institution is chartered with respect to the merger or consolidation. The Hawaii financial institution shall comply with all of the provisions of this chapter and chapter 415, except that the vote by shareholders or members of the Hawaii financial institution to approve the plan of merger or consolidation shall satisfy the requirements of section 412:3-604[, and that]. If the resulting institution is a Hawaii financial institution, the director of commerce and consumer affairs shall not file articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner[.] in writing. If the resulting institution is a federal financial institution, the director of commerce and consumer affairs shall not file the articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner in writing and the resulting federal financial institution shall file with the director of commerce and consumer affairs a confirmation in writing by the commissioner of the date and time of the merger or consolidation, together with the appropriate filing fee pursuant to chapter 415.

(e) A Hawaii mutual savings and loan association may merge into a Hawaii stock financial institution or a federal financial institution whose operations are principally conducted in this State, or may consolidate with a Hawaii stock financial institution or a federal financial institution whose operations are conducted princi-



pally in this State into a new resulting institution; provided that the resulting institution shall be a Hawaii stock financial institution or a federal financial institution, and shall not be a Hawaii mutual savings and loan association. The merger or consolidation shall be effected pursuant to the procedures, conditions, and requirements for, and with the effect of, the merger or consolidation of two or more stock financial institutions pursuant to this section and to chapter 415, as though the Hawaii mutual savings and loan association was a stock financial institution; except that the members of the participating Hawaii mutual savings and loan association shall approve the plan of merger or consolidation at a meeting duly called and noticed and upon a vote which satisfies the requirements of sections 412:3-604 and 412:3-605. If the resulting institution is a Hawaii financial institution, the director of commerce and consumer affairs shall not file articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner in writing. If the resulting institution is a federal financial institution, the resulting federal financial institution shall file with the director of commerce and consumer affairs a confirmation in writing by the commissioner of the date and time of the merger or consolidation, together with the appropriate filing fee pursuant to chapter 415.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

**Note**

1. So in original.

**ACT 55**

H.B. NO. 1934

A Bill for an Act Relating to Forms of Deposit in Hawaii Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:4-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as specifically prohibited by federal law or any provision of this chapter, and subject to section [412:8-205] 412:8-200 with respect to trust companies, section 412:9-400 with respect to depository financial services loan companies, and section 412:9-500 with respect to nondepository financial services loan companies, Hawaii financial institutions may open accounts and accept deposits therein of any type generally accepted by financial institutions in the United States.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

A Bill for an Act Relating to Powers of Trust Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:8-200, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as otherwise expressly authorized by this chapter, a trust company shall not:

- (1) Issue [drafts,] bills of exchange[,] or letters of credit;
- (2) Discount commercial paper;
- (3) Solicit, accept, or hold deposits;
- (4) Engage in a general banking, savings bank, or savings and loan association business;
- (5) Engage in any business for which a real estate broker’s license is required, in any business for which an insurance agent or agency license is required, or in any business of a securities broker or dealer; and
- (6) Make any loans or extensions of credit to any person; except, a trust company may:
  - (A) Make loans to its affiliates not exceeding in the aggregate amount twenty per cent of the trust company’s capital and surplus;
  - (B) Make loans to its clients for the sole purpose of preventing overdrafts in the client’s account or accounts or securing repayment of overdrafts in the client’s account or accounts. A trust company may charge interest on such advances, subject to chapter 478. A trust company shall have a lien on the assets in the client’s account [[]or accounts[]] for the amount of the advance or credit and interest; and
  - (C) Pay or advance premiums due and owing by any person to an insurance company, before the payment by the person; provided that the total amount of the payments and advances at any one time for the benefit of any one person shall not exceed two per cent of the capital and surplus of the trust company, and for the benefit of all such persons shall not exceed fifteen per cent of the capital and surplus of the trust company.”

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

**Note**

1. So in original.

## ACT 57

H.B. NO. 1936

A Bill for an Act Relating to Changes to the Field of Membership of Hawaii Credit Unions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:10-109, Hawaii Revised Statutes, is amended to read as follows:

**“§412:10-109 Membership.** (a) The membership of a credit union shall consist of those persons who share a common bond set forth in the articles of association, have been duly admitted members, have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares and have complied with such other requirements as the articles of association and bylaws specify.

(b) Organizations comprised primarily of individuals who are eligible for membership in the credit union, and corporations whose total number of stockholders or whose majority stockholders are comprised primarily of such individuals, may be admitted to membership in the same manner and under the same conditions as individuals. Likewise, organizations one of whose principal functions is to provide services to persons who are eligible for membership in the credit union may be admitted to membership. Other organizations having a commonality of interest with the credit union may be admitted to membership with the approval of the commissioner.

(c) Any credit union organized under this article may accept as a member any other credit union organized under this chapter or federal law.

(d) The board of directors shall act on all membership applications, unless the board has appointed one or more membership officers, who shall be empowered to approve or disapprove membership applications according to criteria established in the bylaws and under the direction of the board. A record of the actions taken by a membership officer shall be made available in writing to the board of directors for inspection. Any person whose application has been disapproved may appeal such decision to the board in writing.

(e) Members who cease to be eligible for membership may be permitted to retain their membership in the credit union, under reasonable standards established by the board of directors.

(f) The members of a credit union shall not be personally or individually liable for the payment of the credit union's debts solely by virtue of holding membership.

(g) The board of directors may expel a member from membership in the credit union, if such member fails to comply with the articles, bylaws, rules, or regulations of the credit union, any law applicable to the credit union, or for any other just cause; provided[,] that no member may be expelled unless:

- (1) The member has been informed in writing of the reasons for the expulsion;
- (2) The member has, upon request, a reasonable opportunity to present evidence and argue against the expulsion, before a hearing panel consisting of the board of directors and the supervisory committee; and
- (3) If the hearing is requested, a majority of the hearing panel votes to expel the member.

The amounts paid by an expelled member for shares of the credit union shall be paid to such member after deducting any amounts due by such member to the credit

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union; provided that such expulsion shall not relieve the expelled member from any remaining liability to the credit union.

(h) Any proposed change to a credit union's field of membership, whether it is an addition, deletion, or simple update, shall require the prior written approval of the commissioner. Upon receipt of the commissioner's approval, the change shall be reflected formally in the credit union's articles of association."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 58

H.B. NO. 2049

A Bill for an Act Relating to Airport Law Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-14.6, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Effective July 1, 1991, the functions and authority heretofore exercised by the director of transportation and the department of transportation related to law enforcement, including those pertaining to parking at its facilities and security, shall be transferred to the department of public safety[.], except that law enforcement for airports and for parking facilities at airports shall continue to be under the jurisdiction of the department of transportation."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1995.

(Approved April 25, 1995.)

## ACT 59

S.B. NO. 1262

A Bill for an Act Relating to the Secondary Market Services Corp.—Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 309-1.5, Hawaii Revised Statutes, is amended to read as follows:

**"§309-1.5 Authorization of corporation to acquire educational loan notes.** The governor is authorized to request the organization of a private not-for-profit corporation to be affiliated with United Student Aid Funds, Inc., which corporation shall be established and operated exclusively for the purpose of acquiring student loan notes held by local financial institutions under the federal Higher Education Act of 1965, as amended. The governor is authorized to request that

United Student Aid Funds organize a single private not-for-profit corporation known as the Secondary Market Services Corp.—Hawaii for the exclusive purpose of this section. The corporation:

- (1) Shall be a not-for-profit corporation organized under the laws of the State and authorized to do business within the State and shall be the only not-for-profit corporation organized within the State requested to conduct a program of acquiring student loan notes;
- (2) Shall be required by its articles of incorporation and bylaws to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States; and
- (3) Is authorized to issue obligations pursuant to section 103 of the Internal Revenue Code of 1986, as amended. Those obligations shall be payable solely from the revenues and assets of the corporation pledged thereto and shall not constitute a general, limited, or moral obligation of the State, or any department, agency, or political subdivision thereof under any constitutional, statutory, or other provision. Neither the full faith and credit of the State nor that of any department, agency, or political subdivision thereof shall be pledged to the payment of the principal of, or interest on, those obligations and those obligations shall so state on their face. Bonds, notes, and other obligations of the corporation are declared to be issued for a public purpose and to be public instrumentalities and, together with the income therefrom, shall be exempt from all state, county, and municipal taxation, except inheritance, transfer, and estate taxes.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 60

S.B. NO. 872

A Bill for an Act Relating to a Section of the Hawaii Revised Statutes Amended by Act 221, Session Laws of Hawaii 1994.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to resolve uncertainties in the law relating to a certain statutory provision subject to automatic repeal by operation of law.

Section 40-68, Hawaii Revised Statutes (HRS), as amended by section 1 of Act 221, Session Laws of Hawaii 1994, is repealed by section 4 of that Act on July 1, 1996 and reenacted in the form in which it read “prior to this Act”. “Prior to this Act” could mean either:

- (1) The day before the effective date of section 1 of the Act (amending section 40-68)—June 29, 1994; or
- (2) The day before the effective date of the Act—June 30, 1994.

The legislature finds that the intent of Act 221 was to make the amendments to section 40-68 temporary. However, if the reenactment date in section 4 of Act 221 is construed to mean June 30, 1994, the result is that the amendments to section

## ACT 61

40-68 will be permanent, since the amendments to 40-68 made by Act 221 take effect on June 30, 1994.

If, on the other hand, the reenactment date is construed to mean the day before the effective date of section 1 of the Act, or June 29, 1994, the amendments to section 40-68 will be repealed on July 1, 1996 and reenacted in the form in which it read on the day before the amendments to section 40-68 took effect.

To resolve this uncertainty, this Act amends section 4 of Act 221 to specify that section 40-68, HRS, will be reenacted in the form in which it read on the day before the effective date of section 1 of the Act, or June 29, 1994.

SECTION 2. Act 221, Session Laws of Hawaii 1994, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 1994; provided that section 1 shall take effect on June 30, 1994; and provided further that on July 1, 1996, section 1 of this Act shall be repealed and section 40-68, Hawaii Revised Statutes, shall be reenacted in the form in which it read [prior to this Act.] on June 29, 1994.”

SECTION 3. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1995, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 25, 1995.)

## ACT 61

S.B. NO. 1712

A Bill for an Act Relating to the Insurance Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

**“§431:2- Reimbursement and compensation of examiners; source of funds; disposition of receipts.** (a) All moneys necessary for the compensation and reimbursement of independent contractor examiners and insurance division staff examiners for actual travel expenses, reasonable living expenses, and per diem expenses, at customary rates approved by the commissioner shall be allocated by the legislature through appropriations out of the state general fund. The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(b) Each authorized insurer shall deposit at a time determined by the commissioner the sum of \$200 with the commissioner for deposit into the state general fund.

(c) All moneys, fees, and other payments received by the commissioner under this part shall be deposited to the credit of the state general fund.

(d) This section shall take effect upon the termination of the insurance examiners revolving fund on June 30, 1999.”

SECTION 2. Act 190, Session Laws of Hawaii 1994, is amended by amending section 10 to read as follows:

“SECTION 10. This Act shall take effect on [July 1,] June 21, 1994 [and shall<sup>1</sup> be repealed]; provided that on June 30, [1996; provided that any statutory or session law material in this Act in existence on June 30, 1994, shall be reenacted on July 1, 1996 in the same form in which it existed on June 30, 1994.] 1999, sections 1 through 5 of this Act and section 431:2-307, Hawaii Revised Statutes, shall be repealed, and sections 431:3-302, 431:5-307, 431:19-107, and 431:19-115, Hawaii Revised Statutes, are reenacted in the form in which they read on June 20, 1994.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 1999, the director of finance shall transfer to the credit of the state general fund all unexpended or unencumbered balances remaining in the insurance examiners revolving fund.

(Approved April 25, 1995.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 62

S.B. NO. 1433

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§304- Tuberculosis clearance certification; exemption.** Notwithstanding any law or rule to the contrary, a person wishing to enroll at a campus within the University of Hawaii system solely to participate in a non-credit, short-term course lasting less than fifteen days, shall not be required to present, as a condition to enrollment or otherwise, a tuberculosis clearance certification.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1995.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Office of Veterans' Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 1976, the legislature declared, in language now codified in section 6E-1, Hawaii Revised Statutes, that:

- (1) The historic heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threatened to destroy the remaining vestiges of this heritage;
- (2) It is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of this property for the education, inspiration, pleasure, and enrichment of its citizens; and
- (3) It is the public policy of this State to provide leadership in preserving, restoring, and maintaining historic property, to ensure the administration of this historic property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic property.

The State's war memorials are intended to remind future generations about the freedoms for which so many sacrificed so much for us all. Our veterans' cemeteries are the final resting place of our country's fallen heroes and their comrades-in-arms. Both have the same ultimate goal—to honor, but the maintenance of these memorials reflects something entirely different—shabby neglect that borders on disrespect and dishonor. Some of our war memorials and veterans' cemeteries no longer have the appearance of being hallowed ground. The State's war memorials are deteriorating due to years neglect and indifference—literally falling into the sea in the case of the Waikiki Natatorium, which is listed on both the State and National Registers of Historic Places. The Natatorium, unfortunately, is not unique in this regard. The recently dedicated Korean-Vietnam Memorial, now less than a year old, is already being stained by water spots, etched by the elements, and is deteriorating because of lack of proper maintenance. This neglect must end.

Hawaii's war memorials and veterans' cemeteries are our promise to veterans that their deeds and names will not be forgotten. How this State cares for its war memorials and veterans' cemeteries is a reflection of the esteem in which it holds the men and women who fought and died for their country. We therefore have an obligation to ensure that these war memorials and veterans' cemeteries continue to serve the purposes for which they are intended, and garner the respect that they truly deserve for their country. The enactment of a single law cannot alone undo the years of neglect that have caused some war memorials to deteriorate badly, but this Act will begin to correct the years of neglect by requiring the appropriate state agencies to maintain a level of vigilance with regard to the memorials that has not been shown to date.

The purpose of this Act is to require the office of veterans' services to annually inspect all state war memorials and veterans' cemeteries for repair and maintenance deficiencies, and report all repair and maintenance problems at these memorials and cemeteries to the adjutant general, the comptroller, and the legislature in order to ensure that potential problems are detected and corrected as expeditiously as possible.

SECTION 2. Section 363-3, Hawaii Revised Statutes, is amended to read as follows:



“§363-3 Activities of the office. Except as otherwise provided by law, the office shall:

- (1) Maintain or cause to be maintained, subject to the control and supervision of the office, a center to which veterans, including their families and dependents, may come for information, counsel, aid, and assistance, and by which they may be directed or referred to any agency in the community whose function it is, by law or otherwise, to provide the services, assistance, or benefits which in each instance appear necessary or appropriate. Agencies to which any referrals may be made shall include, but are not limited to, departments and divisions of the federal and state governments, veterans' organizations, and so-called “private” social agencies[.];
- (2) Assume the initiative, in cooperation with agencies in the community, for coordinating all services now available, and which hereafter may become available, for the use and benefit of veterans, including their families and dependents, to the end that maximum effectiveness of the services may be realized, and overlapping and duplication of effort as between agencies may be minimized[.];
- (3) Assemble, analyze, compile, and disseminate factual, up-to-date information with respect to:
  - (A) [benefits,] Benefits, rights, and services of whatever nature to which veterans, including their families and dependents, are entitled, or which may be available to them[.]; and
  - (B) [the] The structure, functions, area of service, and other pertinent information regarding each agency and organization participating in the veterans' assistance program in the State[.];
- (4) Cooperate with federal departments and other agencies which, by law, have responsibility for the administration of rights and benefits granted by the federal government to veterans, including their families and dependents[.];
- (5) As soon as [may be] possible after the close of each fiscal year, compile and submit to the governor, for such use or distribution as the governor may deem appropriate, a comprehensive report of the activities and operations of the office, and of all disbursements and expenditures authorized by [it hereunder.] the office under this section; and
- (6) Inspect annually all state war memorials and veterans' cemeteries for repair and maintenance deficiencies, and report all repair and maintenance problems at these memorials and cemeteries to the adjutant general, the comptroller, and the legislature prior to the start of each regular session.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Became law on April 27, 1995, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Relating to Nonresident Violator Compact.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Article II of section 291A-1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) “Compact administrator” means the [administrator of the traffic violations bureau of the judiciary.] administrative director of the courts or designee.”

SECTION 2. Article II of section 291A-1, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) “Licensing authority” means the [administrator of the traffic violations bureau of the judiciary.] administrative director of the courts or designee.”

SECTION 3. Article VI of section 291A-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The motor vehicle administrator of each party state shall be the administrator of this compact for their state. For the State of Hawaii, the [administrator of the traffic violations bureau of the judiciary] administrative director of the courts or designee shall be the administrator of this compact. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

**Note**

1. Should be underscored.

A Bill for an Act Relating to Adult Residential Care Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 165, Session Laws of Hawaii 1994, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on July 1, 1994<sup>1</sup> and shall be repealed on [June 30, 1996.] June 30, 1998; provided that this Act shall be repealed upon the termination of federal matching assistance or the provision of long-term care services under the State’s Medicaid waiver for the health QUEST demonstration project granted through Section 1115 of the Social Security Act, whichever is sooner.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

**Note**

1. Prior to amendment “,” appeared here.

**ACT 66**

S.B. NO. 1573

A Bill for an Act Relating to Chapter References in Chapter 231, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-1, Hawaii Revised Statutes, is amended to read as follows:

**“§231-1 Definitions.** Whenever used in [chapters 231 to 249, 236D, 237D, 244D, and 251:] chapters of the law under title 14 administered by the department:

“Assessor” or “assistant assessor” means the assessor or an assistant assessor appointed for the taxation district concerned. Whenever there is more than one assessor for the first district, with respect to that district “assessor” or “assistant assessor” means the assessor or assistant assessor for a particular tax.

“Comptroller” means the comptroller of the State.

“Department” means the department of taxation, unless the context clearly indicates otherwise.

“Property” or “real property” has the meaning defined herein, and, to the extent [required by provisions making] applicable to other chapters[, this chapter, or chapters 232, 233, 235 to 239, 241 to 245, 236D, 237D, 244D, and 251, also means and] of the law under title 14 administered by the department includes other subjects or measures of tax. “Real property” includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the land, and any fixture which is erected on or affixed to [such] the land, buildings, structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use [thereof] is necessary to the utility of [such] the land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to [such] the land, buildings, structures, fences, and improvements, excluding, however, any growing crops.”

SECTION 2. Section 231-3, Hawaii Revised Statutes, is amended to read as follows:

**“§231-3 Department, general duties and powers.** The department of taxation shall have the following duties and powers, in addition to any others prescribed or granted by this chapter:

- (1) Assessment: To make any assessment by law required to be made by the department;
- (2) Collections: To be responsible for the collection of all taxes imposed [by chapters 231 to 249, 236D, 237D, 244D, and 251.] under title 14,

- except those which by law are to be collected by county treasurers, and for such other duties as are provided by law;
- (3) Construction of revenue laws: To construe the tax and revenue laws, the administration of which is within the scope of the department's duties, whenever requested by any officer acting under those laws, or by an interested person;
  - (4) Enforcement of penalties: To see that penalties are enforced when prescribed by any tax or revenue law of the State (the administration of which is within the scope of the department's duties) for disobedience or evading of its provisions, and to see that complaint is made against persons violating any such law; in the execution of these powers and duties the department may call upon the attorney general or any of the attorney general's deputies, including the county attorneys or public prosecutors, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities, and punishments for violation of the laws administered by the department;
  - (5) Forms: To prescribe forms to be used in or in connection with any assessment, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the assessment, and to change the same from time to time as deemed necessary;
  - (6) Inspection, examination of records: To inspect and examine the records of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling the department to obtain all information that could in any manner aid the department in discharging its duties under any tax law;
  - (7) Recommendations for legislation: To recommend to the governor any amendments, changes, or modifications of the laws as may seem proper or necessary to remedy injustice or irregularity in taxation or to facilitate the assessment of taxes;
  - (8) Report to governor: To report to the governor annually, and at such other times and in such manner as the governor may require, concerning the acts and doings and the administration of the department, and any other matters of information concerning taxation as may be deemed of general interest;
  - (9) Rules: To adopt such rules as the department may deem proper effectually to carry out the purposes for which the department is constituted and to regulate matters of procedure by or before the department;
  - (10) Compromises: With the approval of the governor, to compromise any claim arising under any tax law the administration of which is within the scope of the department's duties; and in each case there shall be placed on file in the department's office a statement of:
    - (A) [the] The name of the taxpayer and the amount and type of tax assessed, or proposed to be assessed[.];
    - (B) [the] The amount of penalties and interest imposed or which could have been imposed by law with respect to the amount of tax assessed, as computed by the department[.];
    - (C) [the] The total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof[.]; and
    - (D) [the] The reasons for the compromise[; and notwithstanding].

Notwithstanding the provisions of any law making unlawful the disclosure of tax returns or return information, statements on file in respect of compromises shall be open to public inspection;

- (11) Retroactivity of rulings: To prescribe the extent, if any, to which any ruling, rule, or construction of the tax laws, of general application, shall be applied without retroactive effect;
- (12) Remission of delinquency penalties and interest: Except in cases of fraud or wilful violation of the laws or wilful refusal to make a return setting forth the information required by law (but inclusion in a return of a claim of nonliability for the tax shall not be deemed a refusal to make a return), the department may remit any amount of penalties or interest added, under any law administered by the department, to any tax that is delinquent for not more than ninety days, in a case of excusable failure to file a return or pay a tax within the time required by law, or in a case of uncollectibility of the whole amount due; and in that case there shall be placed on file in the department's office a statement showing the name of the person receiving the remission, the principal amount of the tax, and the year or period involved;
- (13) Closing agreements: To enter into an agreement in writing with any taxpayer or other person relating to the liability of [such] the taxpayer or other person, under any law the administration of which is within the scope of the department's duties, in respect of any taxable period, or in respect of one or more separate items affecting the liability for any taxable period; the agreement, signed by or on behalf of the taxpayer or other person concerned, and by or on behalf of the department, shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact[.];
  - (A) [the] The matters agreed upon shall not be reopened, and the agreement shall not be modified, by any officer or employee of the State[.]; and
  - (B) [in] In any suit, action, or proceeding, the agreement, or any determination, assessment, collection, payment, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded;
- (14) Other powers and duties: In addition to the powers and duties contained in this chapter, the powers and duties contained in [chapters 235, 237 to 239, 243 to 245, 236D, 237D, 244D, and 251,] other chapters of the law under title 14 administered by the department for levying, assessing, collecting, receiving, and enforcing payments of the tax imposed thereunder, and otherwise relating thereto, shall be severally and respectively conferred, granted, practiced, and exercised for levying, assessing, collecting, receiving, and enforcing payment of the taxes imposed under the authority of those chapters as far as the provisions are consistent with the express provisions of those chapters, as fully and effectually to all intents and purposes as if the same powers and authorities were repeated in those chapters, with reference to those taxes, and all of the provisions shall be applied, construed, deemed, and taken to refer to the taxes imposed under the authority of those chapters, in like manner."

SECTION 3. Section 231-3.5, Hawaii Revised Statutes, is amended to read as follows:

**"§231-3.5 Suspension of running of the period of limitation during bankruptcy proceedings.** The running of the [period] periods of limitation provided [in chapters 235 to 239, 241 to 245, 236D, 237D, 244D, and 251,] under chapters of the law under title 14 administered by the department to the contrary

notwithstanding, shall be suspended for the period during which the director of taxation is prohibited from making an assessment of taxes by reason of title 11 (with respect to bankruptcy) of the United States Code and for sixty days after the prohibition is lifted.”

SECTION 4. Section 231-6, Hawaii Revised Statutes, is amended to read as follows:

“**§231-6 Oath, power to administer.** The department of taxation may administer all oaths or affirmations required to be taken or be administered under [chapters 231 to 249, 236D, 237D, 244D, and 251,] chapters of the law under title 14 administered by the department, with respect to any matters coming within the scope of the duties of the department.”

SECTION 5. Section 231-12, Hawaii Revised Statutes, is amended to read as follows:

“**§231-12 District judges; jurisdiction over misdemeanors and actions for tax collections.** Except as otherwise specifically provided [by chapters 231 to 249, 236D, 237D, 244D, and 251,] under chapters of the law under title 14 administered by the department, the several district judges shall have jurisdiction to try misdemeanors arising under [such chapters] chapters of the law under title 14 administered by the department and all complaints for [the violation] violations of [such chapters] chapters of the law under title 14 administered by the department and to impose any of the penalties therein prescribed, and shall also have jurisdiction to hear and determine all civil actions and proceedings for the collection and enforcement of collection and payment of all taxes assessed thereunder, and all actions or judgments obtained in tax actions and proceedings, notwithstanding the amount claimed.”

SECTION 6. Section 231-15.6, Hawaii Revised Statutes, is amended to read as follows:

“**§231-15.6 Returns of corporations or partnerships.** The returns, statements, or answers required [by chapter 235, 236D, 237, 237D, 238 to 243, 244D, 245, 247, or 251,] under chapters of the law under title 14 administered by the department, in the case of a corporation, shall be made by any officer of the corporation, or in the case of a partnership, by any one of the partners.”

SECTION 7. Section 231-15.7, Hawaii Revised Statutes, is amended to read as follows:

“**§231-15.7 Returns by fiduciaries.** The returns, statements, or answers required [by chapter 235, 236D, 237, 237D, 238 to 243, 244D, 245, 247, or 251,] under chapters of the law under title 14 administered by the department shall be made by the personal representative, trustee, guardian, or other fiduciary in such capacity in any taxation district in which returns are required.”

SECTION 8. Section 231-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This subsection shall apply to all taxes.

- (1) All refunds shall be paid only upon a form to be known as a “refund voucher” prepared by the collector. The refund vouchers shall set forth

all the details of each transaction, shall be approved by the director, and shall be forwarded to the comptroller from time to time. The comptroller shall issue a warrant, in the form prescribed by section 40-52, for the payment of any such refund out of the tax reserve fund hereinafter created; provided that if the person entitled to the refund is delinquent in the payment of any tax, the comptroller, upon demand of the collector and after notice to the delinquent taxpayer, shall withhold the amount of the delinquent taxes, together with penalties and interest thereon, from the amount of the refund and pay the same to the collector.

- (2) There is hereby appropriated, from the general revenues of the State not otherwise appropriated, the sum of \$25,000 which shall be set aside as a special fund to be known as the tax reserve fund. All refunds of taxes collected by the department under [chapters 235 to 239, 241, 243 to 245, 236D, 237D, 244D, and 251, heretofore made out of the reserve funds in chapters 235 and 237 or from the general fund,] chapters of the law under title 14 administered by the department shall be made out of the tax reserve fund. The director of taxation, from time to time, may deposit taxes collected under [the chapters enumerated in the immediately preceding sentence] chapters of the law under title 14 administered by the department in the state treasury to the credit of the tax reserve fund so that there may be maintained at all times a fund not exceeding \$25,000. The amounts deposited shall be made from the taxes with respect to which a particular refund is made."

SECTION 9. Section 231-29, Hawaii Revised Statutes, is amended to read as follows:

**"§231-29 Joinder of party defendant when State claims tax liens.** The director of taxation (or in the case of a lien under chapter 383, the director of labor and industrial relations) may be named a party defendant in any civil action in any state court of competent jurisdiction or in the district court of the United States for the district of Hawaii, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the State has or claims a tax lien under [chapters 233, 235, 236D, 237 to 239, 237D, 241, 243, 244D, 245, 251, and 383;] chapters of the law under title 14 administered by the department or chapter 383; provided that the jurisdiction [herein] conferred by this section shall be limited and shall not operate as a consent by the State to be sued as to its claim of title to or liens and encumbrances on real and personal property other than the liens aforementioned.

Service upon the director shall be made as provided by the rules of court. In any action [herein] contemplated[,] under this section, the director may ask, by way of affirmative relief, for the foreclosure of the aforementioned state tax liens, but in the absence of such request for affirmative relief, upon any foreclosure sale the property shall be sold subject to the tax liens. Nothing in this section shall preclude the director from asking for such other and further relief as might have been claimed by intervention in the action."

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

A Bill for an Act Relating to Underestimation of Net Income Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-97, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) In the case of any underpayment of estimated tax, except as provided by this subsection, there shall be added to the tax for the taxable year an amount determined at the rate of [eight per cent a year] two-thirds of one per cent a month or fraction of a month upon the amount of the underpayment for the period of the underpayment.

- (1) The amount of the underpayment shall be the excess of:
  - (A) The required installment, over
  - (B) The amount, if any, of the installment paid on or before the due date for the installment.
- (2) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:
  - (A) The twentieth day of the fourth month following the close of the taxable year, or
  - (B) With respect to any portion of the underpayment, the date on which the portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be credited against unpaid required installments in the order in which the installments are required to be paid.
- (3) For the purposes of this section, the term “tax” means the tax imposed under this chapter reduced by any credits available to the taxpayer other than the credit for amounts withheld from the taxpayer’s wages or taxes withheld at the source, if any, for the taxable year.
- (4) Sections 6654(d), (e)(2), (e)(3), (h), (i), (j), (k), and (l),<sup>1</sup> (with respect to failure by an individual to pay estimated income tax), and 6655(d), (e), (g)(2), (g)(3), (g)(4), and (i) (with respect to failure by a corporation to pay estimated income tax) of the Internal Revenue Code, as of the date set forth in section 235-2.3(a), shall be operative for the purposes of this section; provided that the due dates contained in any of the preceding Internal Revenue Code sections shall be deemed to be the twentieth day of the applicable month.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved May 25, 1995.)

#### Note

1. Should be underscored.



## ACT 68

S.B. NO. 1627

A Bill for an Act Relating to the Establishment of the University of Hawaii Graduate Application Revolving Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§304- University of Hawaii graduate application revolving fund.** There is established a University of Hawaii graduate application revolving fund for graduate program application processing. The board of regents may establish appropriate charges for application processing. The revenues from such charges shall be deposited into this revolving fund and be used to pay the costs of processing applications to all graduate programs.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 69

S.B. NO. 1645

A Bill for an Act Relating to Chapter 183C.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The functions and authority heretofore exercised by the board of commissioners of agriculture and forestry (except the management of state parks and the conservation, development, and utilization of forest resources, including regulatory powers over the forest reserve provided in [section 183-41,] Act 234, section 2, Session Laws of Hawaii 1957, and of fish and game resources transferred to the department of land and natural resources), by the farm loan board as heretofore constituted, and by the University of Hawaii with respect to the crop and livestock reporting service and market news service, are transferred to the department of agriculture established by this chapter.”

SECTION 2. Section 171-58.5, Hawaii Revised Statutes, is amended to read as follows:

**“§171-58.5 Prohibitions.** The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline is prohibited with the following exceptions:

- (1) The taking from seaward of the shoreline of such materials, not in excess of one gallon per person per day for reasonable, personal, noncommercial use;

- (2) For the replenishment or protection of public shoreline areas and adjacent public lands seaward of the shoreline, or construction or maintenance of state approved lagoons, harbors, launching ramps, or navigational channels with a permit authorized under [section 183-41;] chapter 183C;
- (3) The clearing of such materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless this placement would result in significant turbidity; or
- (4) The cleaning of areas seaward of the shoreline for state or county maintenance purposes including the purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless such placement would result in significant turbidity.”

SECTION 3. Section 183-42, Hawaii Revised Statutes, is amended to read as follows:

**“§183-42 Strip mining; prior approval of license or permit.** No original permit or license for strip mining on land within the forest reserve boundaries shall be issued by any officer or agency of the State without the prior approval and concurrence of the department. In determining whether to grant or withhold such approval, the department shall be guided by the standards set forth in [section 183-41.] chapter 183C.”

SECTION 4. Section 183-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board [of land and natural resources] shall adopt rules concerning the application and issuance of permits for the repair, strengthening, reinforcement, and maintenance of fishponds pursuant to [section 183-41.] chapter 183C. The rules shall specify the extent:

- (1) Of repairs, strengthening, reinforcement, and maintenance for which no permit is necessary, but for which the owner shall be required to notify the board in writing of the owner’s intent to perform them which notification shall be submitted not less than ten days before performing the repairs, strengthening, reinforcement, or maintenance, and for which receipt and lack of action by the board within the ten-day notice period shall constitute approval;
- (2) Of repairs, strengthening, reinforcement, and maintenance for which a permit shall be required which shall be requested in writing by the owner.”

SECTION 5. Section 188-68, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The intentional taking, breaking, or damaging with crowbar, chisel, or any other implement of any rock or coral to which marine life is visibly attached or affixed, or live stony coral of the taxonomic order, Madreporaria, including the Fungidae or Pocilloporidae families, is prohibited except with a permit authorized under section 187A-6 or [section 183-41] chapter 183C or by the department under rules adopted pursuant to chapter 91 necessary for collecting marine life visibly attached to rocks placed in the water for a commercial purpose.”

SECTION 6. Section 190D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall process the conservation district use application pursuant to [section 183-41] chapter 183C and rules adopted under this chapter. Within sixty days after the submission of a conservation district use application with a request for a lease for marine activities in state marine waters or submerged lands and the receipt of the related environmental assessment or environmental impact statement, the department shall issue a public notice that the application has been received. The public notice shall describe the marine waters or submerged lands, or both, for which application has been made, the nature of the exclusive use sought, and the purpose for which the application has been made. The notice shall be published on three separate days in a newspaper of general distribution in the State and in the county nearest the marine waters or submerged lands for which application has been made. The public notice shall invite public comment.”

SECTION 7. Section 195F-2, Hawaii Revised Statutes, is amended by amending the definition of “potential natural area reserve” to read:

““Potential natural area reserve” means land or water areas within the protective subzone of the conservation district established pursuant to [section 183-41,] chapter 183C, intact native natural communities identified by the heritage program under chapter 195, and other lands or waters meeting criteria established by the natural area reserves system commission.”

SECTION 8. Section 205-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts. The commission shall set standards for determining the boundaries of each district, provided that:

- (1) In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;
- (2) In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included, except as herein provided;
- (3) In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and
- (4) In the establishment of the boundaries of conservation districts, the “forest and water reserve zones” provided in [section 183-41] Act 234, section 2, Session Laws of Hawaii 1957, are renamed “conservation districts” and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to [section 183-41,] Act 234, section 2, Session Laws of Hawaii 1957, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the master plan or general plan of the county.”

SECTION 9. Section 205-5.1, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182, 183, and [183.] 183C.

(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. “Appropriate county authority” means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 183C, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted without any application for a geothermal resource permit both within and outside of areas designated as geothermal resource subzones pursuant to section 205-5.2 if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.”

SECTION 10. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board’s assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies of the county in which the area is located;
- (6) The potential economic benefits to be derived from geothermal development and potential related industries; and
- (7) The compatibility of geothermal development and potential related industries with the uses permitted under [sections 183-41] chapter 183C and section 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies and guidelines set forth in part I of chapter 205A, and the provisions of chapter 226."

SECTION 11. Section 205-15, Hawaii Revised Statutes, is amended to read as follows:

**"§205-15 Conflict.** Except as specifically provided by this chapter and the regulations adopted thereto, neither the authority for the administration of the provisions of [section 183-41] chapter 183C nor the authority vested in the counties under the provisions of section 46-4 shall be affected."

SECTION 12. Section 205A-41, Hawaii Revised Statutes, is amended by amending the definition of "board approval" to read:

""Board approval" means approval by the board of land and natural resources pursuant to [section 183-41.] chapter 183C."

SECTION 13. Section 205A-43.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authority of the board of land and natural resources to determine the shoreline and enforce rules established under [section 183-41] chapter 183C shall not be diminished by a manmade structure in violation of this part.”

SECTION 14. Section 220-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of land and natural resources shall adopt rules for review of applications, and issuance of permits for aquaculture farms, pursuant to [section 183-41.] chapter 183C. The rules shall specify permitted uses; provided that all uses endorsed by the board of agriculture pursuant to chapter 219 shall be permitted uses; uses for which an environmental impact statement shall be necessary, pursuant to chapter 343, as well as those actions of repair and maintenance which shall not be subject to the permit and environmental impact statement provisions, including but not limited to emergency repairs.”

SECTION 15. Section 607-25, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

## ACT 70

“(c) For purposes of this section, the permits or approvals required by law shall include compliance with the requirements for permits or approvals established by chapters 6E, 46, 54, 171, 174C, 180C, 183, 183C, 184, 195, 195D, 205, 205A, 266, 342B, 342D, 342F, 342H, 342J, 342L, 342N, and 343 and ordinances or rules adopted pursuant thereto under chapter 91.”

SECTION 16. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 70

S.B. NO. 1688

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-53, Hawaii Revised Statutes is amended by amending subsection (c) to read as follows:

“(c) The director, pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible either for Federal Supplemental Security Income, or public assistance in accordance with state standards, or both. The director shall provide for level of care [increases effective July 1, 1989,] payments as follows:

- (1) For those adult residential care homes classified as facility type I[:] and type II the state supplemental payments shall be: not less than [\$70] \$79.90 for level of care (LOC) I; not less than [\$105] \$129.90 for LOC II; and not less than [\$145] \$191.90 for LOC III; and
- (2) For those adult residential care homes classified as facility type II: not less than \$124 for LOC I; not less than \$105 for LOC II; and not less than \$145 for LOC III.]
- (2) For those adult residential care homes classified as facility type I, the state supplemental payment shall not exceed \$284.90 for LOC I; \$369.90 for LOC II; and \$471.90 for LOC III; and
- (3) For those adult residential care homes classified as facility type II, the state supplemental payment shall not exceed \$338.90 for LOC I; \$477.90 for LOC II; and \$579.90 for LOC III.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that:

- (1) Notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; and

- (2) If the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 71

S.B. NO. 1695

A Bill for an Act Relating to Precinct Officials and Other Election Day Officials.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-5, Hawaii Revised Statutes, is amended to read as follows:

**“§11-5 Employees.** (a) The chief election officer may employ a permanent staff, subject to [the provisions of] chapters 76 and 77, to supervise state elections; maximize registration of eligible voters throughout the State; maintain data concerning registered voters, elections, apportionment, and districting; and to perform other duties as prescribed by law. The chief election officer or county clerk may employ precinct officials and other election employees as the chief election officer or county clerk may find necessary, none of whom shall be subject to [the provisions of] chapters 76 and 77.

(b) Notwithstanding chapters 103 and 103D, the chief election officer may contract with community organizations, school booster clubs, and nonprofit organizations for the provision and compensation of precinct officials and other election related personnel, services, and activities; provided that to be eligible to enter into a contract, the organization or club shall have received a tax clearance certificate from the department of taxation.”

SECTION 2. Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

**“§11-72 Precinct officials; submission of names and assignment; vacancies.** (a) All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the [ninetieth] sixtieth day prior to the close of filing for any primary, special primary, or special election. All precinct officials shall be able to read and write the English language. If any party fails to submit the required names by the above deadline, [the chief election officer may fill the positions with available qualified persons.] or names sufficient to fill the

positions to which it would be entitled, assignment of positions to which the party would otherwise be entitled pursuant to subsection (b), may be made without regard to party affiliation.

(b) In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district, or if qualified persons either in or without the precinct or representative district are not available to serve, the chief election officer may designate precinct officials who are not registered voters if the persons so designated are otherwise qualified and shall have attained the age of sixteen years on or before June 30, of the year of the election in which they are appointed to work.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which the person is a candidate. No candidate who failed to be nominated in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairperson of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
  - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, and state representative.
  - (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A).
  - (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
  - (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

(c) In the recruitment and placement of precinct officials, any or all of the requirements of subsection (b) may be waived by the chief election officer if it is determined that minority language assistance or other special needs warrant such waiver, except as provided in subsection (b)(3).

(d) In case of inability, failure, or refusal of any person so assigned to serve as a precinct official, the chief election officer shall[, so far as reasonably practicable,] appoint a person to fill the vacancy [from the same party as that of the person to



be replaced. In case of doubt as to the party affiliation of a precinct official, the chief election officer shall use first, the party membership list; and second, the person's word for the person's party affiliation].”

SECTION 3. Section 11-76, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Electronic ballot and voting machine elections. Precinct officials[, other than the chairman and voter assistance official, shall be paid \$75 for each election. The voter assistance official shall be paid \$80 for each election. The chairperson of the precinct officials for each precinct shall be paid \$85 for each election for a single-unit precinct and \$15 more per unit for larger precincts. Alternate precinct officials who are trained and certified and who remain available but do not work in either the primary or general election shall be compensated \$5.] and related election day nonprofit groups or employees shall be compensated pursuant to a schedule established by the chief election officer. The schedule shall be contained in rules adopted pursuant to chapter 91.”

SECTION 4. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

“**§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means employees directly engaged in the day to day operation of the hotel and employed by the operator.

“Hotel” means an operation licensed under section 445-92.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

“Owner” means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision's county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator's operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public

sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the day to day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property; [and]

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities[.];
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2[.]; and
- (7) Amounts received as compensation by community organizations, school booster clubs, and nonprofit organizations under a contract with the chief election officer for the provision and compensation of precinct officials and other election related personnel, services, and activities, pursuant to section 11-5.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 72

S.B. NO. 1766

A Bill for an Act Relating to Community Correctional Centers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-6, Hawaii Revised Statutes, is amended to read as follows:

**“§353-6 Establishment of community correctional centers.** (a) There shall be a community correctional center for each county under the direction and administration of the director. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

- (1) Provide residential detention for persons [awaiting judicial disposition who have not been conditionally] who have been arraigned or have made an initial appearance and who have not been admitted to bail, released to appear, or otherwise released;
- (2) Provide residential custody and correctional care for committed misdemeanants and for felons committed to indeterminate sentences;
- (3) Provide for committed persons, correctional services, including but not limited to, social and psychiatric-psychological evaluation, employment, counseling, social inventory, correctional programming, medical and dental services, and sex abuse education and treatment programs for persons convicted of sexual offenses or who are otherwise in need of these programs;
- (4) Provide recreational, educational, and occupational training, and social adjustment programs for committed persons;
- (5) Provide referrals to community educational, vocational training, employment, and work study programs; and aftercare, supervisory, and counseling services for persons released from centers.

(b) Each county shall provide residential detention for persons who are prearrestment detainees.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 73

S.B. NO. 1774

A Bill for an Act Relating to the Hiring of Attorneys.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-8, Hawaii Revised Statutes, is amended to read as follows:

**“§28-8 First deputy attorney general; other deputies.** (a) The attorney general shall appoint, and at the attorney general’s pleasure remove, a first deputy attorney general and such other deputies and law clerks as the exigencies of the

public service may require, and shall be responsible for all of the acts of the first deputy attorney general, other deputies, and law clerks. They shall act under the direction of the attorney general and shall perform such duties as the attorney general may require. The first deputy attorney general and other deputies, subject to such directions, may perform or exercise any and all duties or powers by law required of or conferred upon the attorney general.

(b) The attorney general may appoint and [at the attorney general's pleasure remove], by contract, retain the services of special deputies to perform such duties and exercise such powers as the attorney general may specify in their several appointments. The special deputies shall serve at the pleasure of the attorney general. At the option of the attorney general, special deputies may be compensated on a fixed-price basis, an hourly rate basis, with or without a fixed cap, or, if a special deputy has been appointed to represent the State in an action by the State pursuant to section 661-10, through a contingent fee arrangement to be specified in the contract and payable out of all sums the special deputy recovers for the State by judgment, order, or settlement.

(c) The first deputy attorney general and all of the other deputies shall take the oath required of other public officers."

SECTION 2. Section 485-3, Hawaii Revised Statutes, is amended to read as follows:

**"§485-3 Assistants; compensation; quarters; reports.** (a) The commissioner of securities shall employ from time to time such other officers, attorneys, clerks, and employees, as are necessary for the administration of this chapter. They shall perform such duties as the commissioner assigns to them and their compensation, and the compensation of the deputies herein provided for, shall be fixed by the commissioner with the approval of the governor, subject to chapters 76 and 77. The commissioner and deputies and each of the employees shall take and subscribe and file the oath of office prescribed by law.

The commissioner, deputies, or any person appointed or employed by the commissioner under this subsection shall be paid, in addition to their salary or compensation when required to travel on official duties, the transportation cost, board, lodging, and other traveling expenses necessary and actually incurred by each of them in the performance of the duties required by this chapter or performed by the direction of the commissioner.

(b) Notwithstanding any other law to the contrary, the commissioner of securities, by contract, may retain the services of attorneys for the enforcement of this chapter. The attorneys shall serve at the pleasure of the commissioner. At the option of the commissioner, attorneys retained by contract under this subsection may be compensated on a fixed-price basis, an hourly rate basis, with or without a fixed cap, or through a contingent fee arrangement to be specified in the contract and payable out of all sums the attorney recovers for the State by judgment, order, or settlement.

(c) The governor shall cause the commissioner to be furnished with such quarters, stationery, furniture, office equipment, and other supplies as may be necessary for the efficient execution of the functions vested in the commissioner by this chapter.

(d) The commissioner shall report to the governor annually upon such date as the governor shall establish. The report shall contain an [amount] account of the work of the commissioner during the period covered and such data and information as may be deemed necessary or appropriate."

SECTION 3. Section 487-3, Hawaii Revised Statutes, is amended to read as follows:

“[[[§487-3]] Personnel. (a) The director may appoint as staff members persons who have been admitted to practice law before the supreme court of this State without regard to chapters 76 and 77. All other employees shall be appointed by the director in accordance with chapters 76 and 77.

(b) The director may, by contract, retain the services of special consumer protection attorneys for the prosecution of consumer-related matters. The special consumer protection attorneys shall serve at the pleasure of the director. At the option of the director, special consumer protection attorneys may be compensated on a fixed-price basis, an hourly rate basis, with or without a fixed cap, or through a contingent fee arrangement to be specified in the contract and payable out of all sums the special consumer protection attorney recovers for the State by judgment, order, assurance of voluntary compliance, or settlement.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 74

H.B. NO. 295

A Bill for an Act Relating to the Student Loan Assistance Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-93, Hawaii Revised Statutes, is amended to read as follows:

“§304-93 Repayment of loans. All loans made under this part shall bear interest at [three] five per cent simple interest. Repayment of principal and interest charges shall commence nine months after graduation or after a borrower ceases to be enrolled at least half-time in a degree program and shall be paid in periodic installments within a ten-year period. The university may charge late fees and all other reasonable costs for the collection of delinquent loans. The board of regents may, upon application by the student and upon a showing of good cause, defer repayment of the loan and commencement of interest. Liability for repayment of a loan shall be canceled upon the death or permanent total disability of the borrower.

The university may spend out of the state higher education loan fund up to [one] two per cent of the total amount of loans outstanding for [the collection of repayments] collection and administrative expenses. In addition, all payments collected shall revert to and be credited to the loan fund.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

A Bill for an Act Relating to Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 142-98, Hawaii Revised Statutes, is amended to read as follows:

“**[§142-98]** **Fees.** (a) The department of agriculture may establish and assess fees pursuant to chapter 91 for facilities usage, vaccination programs, emergency transportation of quarantined animals, insecticides, medication, and other goods and services deemed necessary and provided by the department of agriculture in enforcing the provisions of this chapter; provided that the assessment of these fees does not violate any other provision of this chapter.

(b) All fees and expenses, other than for the initial inspection, relating to quarantine, confinement, investigation, overtime, meals, transportation, recapture, vaccination, examination, treatment, dipping, and any other function deemed necessary by the department shall be the responsibility of the owner, consignee, or handler.

(c) Notwithstanding any other law to the contrary, any payments due and owing to the State for any fees for goods and services received from the State at the animal quarantine station may be made by means of credit cards as may be deemed acceptable by the comptroller. The use of credit cards shall be exempt from section 40-35. A service fee may be required by the department for this use.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

A Bill for an Act Relating to Aquaculture Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 219, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§219- Direct loans.** (a) The department of agriculture may make loans directly to qualified aquaculturists who are unable to obtain sufficient funds at reasonable rates from private lenders either independently or under section 219-7 or 219-8. Loans made under this section shall be authorized only if loans cannot be obtained from the relevant farm credit lender and two other private lenders.

(b) Loans made under this section shall be limited by section 219-6.

(c) Loans made under this section shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed. The interest rate for class “A”, class “B”, and class “C” loans shall be set by rule, pursuant to chapter 91.”

SECTION 2. Section 219-5, Hawaii Revised Statutes, is amended to read as follows:

**“§219-5 Rules [and regulations].** The department of agriculture shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) Prescribe the qualifications for eligibility of applicants for loans.
- (2) Establish preferences and priorities in determining eligibility for loans and loan repayment requirements.
- (3) Establish the conditions, consistent with the purpose of this chapter, for the granting or for the continuance of a grant of a loan.
- (4) Provide for inspection at reasonable hours of the plant facilities, books, and records of an enterprise [which] that has applied for or has been granted a loan and require the submission of progress and final reports.
- (5) To make loans for aquacultural products development, such as financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials or for the supplying of working capital, consistent with section 219-6.
- (6) To authorize the department to secure loans by duly recorded first mortgages upon the following property within the State:
  - (A) Fee simple farm land;
  - (B) Leaseholds of farm land where the lease has an unexpired term at least two years longer than the term of the loan;
  - (C) Aquaculture products;
  - (D) Other chattels;
  - (E) A second mortgage when any prior mortgage does not contain provisions [which] that might jeopardize the security position of the department or the borrower's ability to repay; and
  - (F) Written agreements, such as [an assignment] assignments of income.
- (7) To administer the Hawaii aquaculture loan revolving fund and to deposit into the fund all moneys received on account of principal.
- (8) To include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter.
- (9) Insure loans made to qualified aquaculturalists by private lenders under sections 219-7 and 219-8; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on [such] these loans exceed \$1,000,000.
- (10) Participate in loans made to qualified aquaculturalists by private lenders under section 219-8.
- (11) Make direct loans to qualified aquaculturalists as provided under section 219-.
- [(11)] (12) Establish interest rates chargeable by the State for direct loans and by private lenders for insured and participation loans.
- [(12)] (13) Maintain a proper reserve in the aquaculture loan revolving fund to guarantee payment of loans insured under sections 219-7 and 219-8.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 77

H.B. NO. 1842

A Bill for an Act Relating to Agricultural Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-15, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 78

H.B. NO. 1844

A Bill for an Act Relating to Agricultural Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For loans in class “C” which are made to plant and cultivate land used for crops requiring eighteen months or more before first maturing, the department of agriculture may defer the first payment of principal and interest until the crop first matures[, not to exceed a period of five years.]; provided that:

- (1) The chairperson shall determine the commencement date for payment of the first installment. The chairperson may defer the initial payment on the principal of a loan, not to exceed five years from the date of issuance of the loan; and
- (2) The chairperson may defer the interest on the principal of a loan, not to exceed two years from the date of issuance of the loan.

For purposes of this subsection, “chairperson” means the chairperson of the board of agriculture.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)



## ACT 79

H.B. NO. 1846

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In return for the department’s guaranty, the lender shall remit [out of interest collected an] a one-time insurance fee of [one-half of one] two per cent [a year on the unpaid principal balance] on the principal amount of the insured portion of the loan, [provided that this fee shall not be added to any amount which the borrower is obligated to pay.] at the time the loan is booked, except for the following:

- (1) On loans of \$75,000 or less with a maturity exceeding twelve months, a reduced fee of one per cent; and
- (2) On all guaranteed loans with a maturity of twelve months or less, a reduced fee of one per cent;  
shall be paid.

This fee may be paid by the borrower as a cost for the loan.”

SECTION 2. Section 219-7, Hawaii Revised Statutes, is amended to read as follows:

**“§219-7 Loans insured by the department.**

- (1) The department of agriculture may insure up to ninety per cent of the principal balance of a loan, plus interest due thereon, made to a qualified aquaculturalist by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates[.];
- (2) Loans insured under this section shall be limited by the provisions of section 219-6[.];
- (3) Interest charged on an insured loan made under the provisions of this section shall be determined by the board[.];
- (4) When the application for an insured loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of the loan on which it insures payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan[.];
- (5) In return for the department’s guaranty, the lender shall remit [out of interest collected an] a one-time insurance fee of [one-half of one] two per cent [a year on the unpaid principal balance] on the principal amount of the insured portion of the loan, [provided that this fee shall not be added to any amount which the borrower is obligated to pay.] at the time the loan is booked, except that:
  - (A) On loans of \$75,000 or less with a maturity exceeding twelve months, a reduced fee of one per cent; and
  - (B) On all guaranteed loans with a maturity of twelve months or less, a reduced fee of one per cent;  
shall be paid.  
This fee may be paid by the borrower as a cost for the loan;
- (6) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue

payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower[.];

- (7) Under conditions specified in [regulations] rules of the department, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department subject to section 219-7[.];
- (8) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may [elect to] request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim[.]; and
- (9) The lender may reduce the percentage of the principal balance insured under this section at any time."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 80

H.B. NO. 1847

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 141-1, Hawaii Revised Statutes, is amended to read as follows:

**"§141-1 Duties in general.** The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
  - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants, or other vegetation, and the ways and means of exterminating pests and diseases already in the State and preventing the introduction of those not yet here;
  - (B) General agriculture. Fruits, fibres, and useful or ornamental plants and their introduction, development, care, and manufacture or exportation, with a view to introducing, establishing, and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. Encourage and cooperate with the agricultural extension service and agricultural experiment station of the University of Hawaii and all private persons and organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 149A, and avoid, as far as practicable, duplicating the work of those persons and organizations;

- (3) Agreements with other organizations. [Upon approval of the governor, enter] Enter into contracts, cooperative agreements, or other transactions with any person, agency, or [instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof,] organization, public or private, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;
- (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 149A, and make laws and publications available for public information and consultation;
- (5) Buildings and apparatus. Provide buildings, grounds, apparatus, and appurtenances necessary for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 149A; for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and for carrying out any other purposes of chapters 141, 142, and 144 to 149A;
- (6) Further legislation. Formulate and recommend to the governor and legislature additional legislation necessary or desirable for carrying out the purposes of chapters 141, 142, and 144 to 149A;
- (7) Annual reports. Publish at the end of each year a report of the expenditures and proceedings of the department and of the results achieved by the department, together with other matters germane to chapters 141, 142, and 144 to 149A, and which the department may deem proper;
- (8) Planning and development. Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; administer the planning, development, and management of agricultural park projects; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department of agriculture shall act to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

A Bill for an Act Relating to Foreign-Trade Zones.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 212-8, Hawaii Revised Statutes, is amended to read as follows:

**“§212-8 Exemption from taxes.** Notwithstanding any law to the contrary, sales of all products which are categorized as privileged foreign merchandise, [privileged domestic merchandise,] nonprivileged foreign merchandise, [nonprivileged] domestic merchandise, or zone-restricted merchandise, and which are admitted into a [foreign trade] foreign-trade zone, as more specifically set forth in the Act of Congress, and any rules and regulations promulgated thereunder, made directly to any common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by the crew or passengers on the shipper’s vessels or airplanes, or for use out-of-state by the vessels or airplanes, shall be exempt from those taxes imposed under chapters 237, 238, 243, 244D, and 245.”

SECTION 2. Section 212-9, Hawaii Revised Statutes, is amended to read as follows:

**“§212-9 Special fund.** There is established in the state treasury a fund to be known as the [foreign trade] foreign-trade zones special fund. All fees or other moneys collected under this chapter shall be deposited in this fund. All moneys in the fund are hereby appropriated for the purposes of and shall be expended by the public corporation for the operation, capital improvement, and maintenance of the zone.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

A Bill for an Act Relating to Guarantee of Commercial Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that chapter 211, Hawaii Revised Statutes, authorizing the director of business, economic development, and tourism to guarantee loans made by private lending institutions to eligible businesses has not been used since its creation in 1965 and no funds have been made available by legislative appropriation for the payment of loans in default. The ready availability of loan guarantees from the federal government has made this state program unnecessary.

SECTION 2. Chapter 211, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 83

H.B. NO. 1921

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Under the Omnibus Budget Reconciliation Act ("OBRA") of 1993, states are mandated to adopt legislation to fully implement certain group health insurance and medicaid program requirements which impact on states' insurance laws. It is imperative to act on this legislation as failure to do so will result in the significant penalty of the withholding of federal medicaid match funding of the State's medicaid plan.

The Health Care Financing Administration (HCFA) agrees that the federal statute is vague, but its position is that states must adopt the language as it is written and that any deviation or alteration from the federal code is seen as an "interpretation" of federal law. HCFA has advised that the courts are the appropriate forum for interpretation of the law. States must adopt laws dealing with adopted children, prohibiting insurers from taking medicaid eligibility into account when providing coverage, and several provisions relating to coverage of dependents involved in child support situations. Although there are areas of the federal law which might conflict with existing state law, HCFA has advised that state laws in conflict are preempted.

The purpose of this Act is to add a new chapter to the Hawaii Revised Statutes to fully implement the OBRA of 1993 requirements as mandated by federal law.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
MEDICAID-RELATED MANDATES**

**§ -1 Insurers prohibited from taking medicaid status into account.** Any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health service benefit plan, a mutual benefit society, a fraternal benefit society and a health maintenance organization) is prohibited, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under 42 U.S.C. section 1396a (Section 1902 of the Social Security Act) herein referred to as medicaid, for this State, or any other state.

**§ -2 State's right to third party payments.** To the extent that payment has been made under the state plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the state plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

**§ -3 Coverage of children.** (a) No insurer shall deny enrollment of a child under the health plan of the child's parent for the following grounds:

- (1) The child was born out of wedlock;

- (2) The child is not claimed as a dependent on the parent's federal tax return; or
- (3) The child does not reside with the parent or in the insurer's service area.
- (b) Where a child has health coverage through an insurer of a noncustodial parent the insurer shall:
  - (1) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
  - (2) Permit the custodial parent (or the provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and
  - (3) Make payments on claims submitted in accordance with paragraph (2) directly to the custodial parent, the provider, or the state medicaid agency.
- (c) Where a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:
  - (1) To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
  - (2) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program, or the state agency administering the child support enforcement program; and
  - (3) Not to disenroll (or eliminate coverage of) the child unless the insurer is provided satisfactory written evidence that:
    - (A) The court or administrative order is no longer in effect; or
    - (B) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.
- (d) An insurer may not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under medicaid and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

**§ -4 Employer obligations.** Where a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this State, the employer is required:

- (1) To permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;
- (2) If the parent is enrolled but fails to make application to obtain coverage of the child, to enroll the child under family coverage upon application by the child's other parent, by the state agency administering the medicaid program, or by the state agency administering the child support enforcement program;
- (3) Not to disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that:
  - (A) The court or administrative order is no longer in effect;
  - (B) The child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or
  - (C) The employer has eliminated family health coverage for all of its employees.

- (4) To withhold from the employee's compensation the employee's share (if any) of premiums for health coverage and to pay this amount to the insurer.

§ -5 **Recoupment of amounts spent on child medical care.** The department of the attorney general may garnish the wages, salary, or other employment income of, and withhold amounts from state tax refunds to, any person who:

- (1) Is required by court or administrative order to provide coverage of the cost of health services to a child eligible for medical assistance under medicaid; and
- (2) Has received payment from a third party for the costs of such services but has not used the payments to reimburse either the other parent or guardian of the child or the provider of the services,

to the extent necessary to reimburse the department of human services for its costs, but claims for current and past due child support shall take priority over these claims.

§ -6 **Requirements for coverage of an adopted child.** (a) In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, the plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply to the natural, dependent children of the participants and beneficiaries, irrespective of whether the adoption has become final.

(b) A group health plan may not restrict coverage under the plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time that the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(c) As used in this section:

“Child” means, in connection with any adoption, or placement for adoption, of the child, an individual who has not attained the age of eighteen as of the date of such adoption or placement for adoption.

“Placement for adoption” means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligation.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1995.)

## ACT 84

H.B. NO. 1991

A Bill for an Act Relating to the Statewide Council on Independent Living.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 348-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established [within the department of human services] a statewide council on independent living[.], which shall be a temporary agency created for the special purpose of meeting the requirements of the 1992 Amend-

ments and the 1993 Technical Amendments to the Federal Rehabilitation Act of 1973 and which shall not be placed within a principal department. The council shall consist of nineteen members appointed by the governor as provided in section 26-34 and without regard to section 78-4. The members shall include:

- (1) At least one director of a center for independent living chosen by the directors of centers ~~[[for]] independent living;~~
- (2) ~~[An employee of the department]~~ A representative of the designated state unit as an ex officio nonvoting member; and
- (3) ~~[Members]~~ Representatives of other state agencies that provide services for individuals with disabilities as ex officio nonvoting members.

The council may also include:

- (1) Additional representatives from centers for independent living;
- (2) Parents and guardians of individuals with disabilities;
- (3) Advocates of and for individuals with disabilities;
- (4) Representatives from private business;
- (5) Representatives from organizations that provide services; and
- (6) Other appropriate individuals;

provided that the council shall include at least one member from each county; and provided further that a majority of the council shall be individuals with disabilities who are not employed by any state agency or center for independent living. The council shall elect a chairperson from ~~[the]~~ its membership. ~~[Each]~~ Notwithstanding section 26-34, each member shall serve a term of three years and may not serve more than two consecutive full terms."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1995; provided that on June 30, 1998, this Act shall be repealed and section 348-9(a), Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved May 25, 1995.)

## ACT 85

H.B. NO. 2034

A Bill for an Act Relating to the Taxation of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 241-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The "entire net income from all sources" shall be determined in the same manner as the "taxable income" of a corporation, as provided by chapter 235, with the following changes and adjustments:

- (1) There is included in gross income interest received upon the obligations of the United States or its possessions, or upon securities issued under the authority of an act of Congress, or upon state, territorial, municipal, county, or other bonds or securities whether or not the income from such obligations, bonds, or securities, is tax free. Section 235-7(a)(1), (5), and (6) does not apply.



- [(2)] In lieu of section 235-4, it is provided that there shall be excluded the gross income from property owned, trade or business carried on, and other sources outside the State.
- (3) Sections 235-5 and 235-21 to 235-39 do not apply. The income excluded pursuant to paragraph (2) shall be determined by an allocation and separate accounting. Losses from property owned outside the State and from other sources outside the State shall not be deducted. Reserves shall be allocated to the State by an application of a fraction, the numerator of which consists of the gross income included in determining the "entire net income from all sources" pursuant to this chapter and the denominator of which consists in the gross income similarly ascertained but without regard to whether from sources within or without the State.
- (4)] (2) Deductions connected with income which by this chapter [is] are required to be included in the computation of net income shall be allowed, but deductions connected with income which by this chapter [is] are not to be included in the computation of net income shall not be allowed. Section 235-7(e)(1) does not apply.
- [(5)] (3) Debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or in the discretion of the department of taxation may be treated as a reasonable addition to a reserve for bad debts; provided that when satisfied that a debt is recoverable only in part, the department may allow the debt to be charged off in part.
- [(6)] (4) In the case of any life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined by this chapter, sections 801, 811, and 812 of the Internal Revenue Code do not apply. The total of the deductions allowed by sections 807 and 810 of the Internal Revenue Code shall not exceed the amount of the required interest, as defined by section 807 of the Internal Revenue Code.
- [(7)] (5) Section 582 (with respect to bonds, etc., losses and gains of financial institutions) of the Internal Revenue Code shall be operative for the purposes of this chapter."

SECTION 2. The amendments made by this Act shall apply to the entire net income received for the calendar year preceding January 1, 1997, and for the calendar years thereafter. In the case of a taxpayer operating on a fiscal year basis, the amendments made by this Act shall apply to the entire net income received for the fiscal year in which January 1, 1997, occurs and for fiscal years thereafter.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 1997.

(Approved May 25, 1995.)

A Bill for an Act Relating to Small Boat Harbors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 200, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§200- Designated slip for coast guard auxiliary.** (a) The department may designate one boat slip, that is not contiguous to the United States Coast Guard, in each harbor to be dedicated to a Coast Guard auxiliary vessel and designated as an auxiliary operational facility. The slip shall be occupied by a Coast Guard auxiliary vessel that shall be equipped and operated to answer emergency search and rescue calls. The Coast Guard shall pay the regular slip rate.

(b) The department may adopt rules pursuant to chapter 91 in consultation with the United States Coast Guard to implement this section.”

SECTION 2. Section 200-9, Hawaii Revised Statutes, is amended to read as follows:

**“[§200-9] Purpose and use of state small boat harbors.** (a) State small boat harbors are constructed, maintained, and operated for the purposes of:

- (1) Recreational boating activities;
- (2) Landing of fish; and
- (3) Commercial vessel activities.

For the purpose of this section, “recreational boating activities” means the utilization of watercraft for sports, hobbies, or pleasure, and “commercial vessel activities” means the utilization of vessels for activities or services provided on a fee basis. To implement these purposes, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities, the landing of fish, or commercial vessel activities shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities.

(b) Vessels used for purposes of recreational boating activities which are also the principal habitation of the owners shall occupy no more than one hundred twenty-nine berths at Ala Wai boat harbor and thirty-five berths at Keehi boat harbor, which is equal to fifteen per cent of the respective total moorage space that was available as of July 1, 1976, at the Ala Wai and Keehi boat harbors. Notwithstanding the purposes of small boat harbors, moorage for commercial vessels and commercial vessel activities is not permitted in the Ala Wai and Keehi boat harbors; provided that commercial catamarans, for which valid permits or registration certificates have been issued by the department which allow the catamarans to operate upon Waikiki shore waters for hire, may be permitted to moor in Ala Wai boat harbor at facilities leased for commercial purposes.

(c) Vessels engaging in inter-island ferry service between the islands of Maui and Molokai shall be afforded preferential consideration for ferry landings at Lahaina small boat harbor; provided that:

- (1) The vessel operator has been issued a certificate of public conveyance and necessity for this purpose;
- (2) The design and performance characteristics of the vessel will permit safe navigation within the Lahaina harbor entrance channel and safe docking along the north face of the Lahaina pier; and

(3) The vessel operations will not result in unreasonable interference with the use of Lahaina small boat harbor by other vessels.

(d) The chairperson may adopt rules pursuant to chapter 91 to further implement this section.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 87**

H.B. NO. 895

A Bill for an Act Relating to Long-Term Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that due to Hawaii’s healthful environment, people live longer here than in any other state. The elderly population is increasing at a rate of two and a half times the national average.

Many elderly persons experience the frailties associated with age and require specialized facilities and services. However, there has been a critical shortage of nursing home beds in Hawaii for more than a decade, and there is no indication that this situation will improve in the near future because of factors that include the fiscal constraints under which Medicaid is operating and the high cost of construction in Hawaii.

In many cases assisted living facilities can accommodate many individuals who would otherwise be placed in nursing homes. This is a relatively new concept based upon a social model for caring for people who have lost some of their ability to function. Assisted living combines housing, health care services, and personalized supportive services that respond to individual needs.

In assisted living facilities, care plans are developed and implemented based upon the individual’s need and choice. The resident, the resident’s family, friends, and the support system are all involved in the care planning process. In this way, choice, responsibility, independence, privacy, dignity, and individuality are promoted.

Assisted living stands in contrast to nursing home care and hospital care, where strictly regulated services must be provided even if not needed and in many cases are provided without regard for the wishes of the recipient. In addition to being more humane than nursing home care and hospital care, assisted living is typically far less costly as well.

In 1994, the legislature directed a task force with broad representation to be convened to explore the concept of assisted living and to make recommendations. This task force recently recommended the establishment of rules to ensure an acceptable level of quality in assisted living facilities. However, the legislature would like to emphasize that these rules should not be so stringent that they stifle or hinder the development of these facilities that are of acceptable quality.

The purpose of this Act is to authorize the department of health to establish rules for assisted living facilities.

SECTION 2. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

**“§321-11 Subjects of health [regulations,] rules, generally.** The department of health pursuant to chapter 91 may adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of [such] these bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering, sanitation, and sterilization of articles including linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, electrology shops, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of [such] laundering, sanitation, and sterilization by those conducting any of [such] these businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster homes, assisted living facilities, special treatment facilities and programs, home health agencies, hospices, freestanding birthing facilities, adult day health centers, independent group residences, but excluding youth shelter facilities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under “child care institution”. For the purpose of this paragraph, “adult foster home” has the same meaning as provided in section 321-11.2;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufacturers are carried on, or intended to be carried on;
- (14) Milk;

- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if [such] the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to [such] medical examination, vaccination, revaccination, or immunization, whose parent or guardian [shall] objects in writing [object] thereto on grounds that [such] the requirements are not in accordance with the religious tenets of an established church of which [he] the parent or guardian is a member or adherent, but no [such] objection shall be recognized when, in the opinion of the department, there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department, may be lethal, poisonous, noxious, or dangerous to human life;
- (25) Ambulances and ambulance equipment; and
- (26) Development, review, approval, or disapproval of management plans submitted pursuant to the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519.

The department may require [such] any certificates, permits, or licenses [as] that it may deem necessary to adequately regulate the conditions or businesses referred to in this section.”

SECTION 3. Section 321-15.1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Assisted living facility” means a combination of housing, health care services, and personalized supportive services designed to respond to individual needs, to promote choice, responsibility, independence, privacy, dignity, and individuality.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

ACT 88

H.B. NO. 1557

A Bill for an Act Relating to Nursing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 457-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other powers and duties authorized by law, the board may:

- (1) Adopt, amend, or repeal rules, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter[;], including the definition of the scope of practice of nursing and the delegation of nursing tasks based upon professional nursing standards;
- (2) Prescribe standards for preparing persons for licensure under this chapter;
- (3) Provide for surveys of educational programs as it may deem necessary;
- (4) Accredite educational programs as meet the requirements of this chapter and the rules of the board;
- (5) Deny or withdraw accreditation from educational programs for failure to meet prescribed standards;
- (6) Examine, license, and renew the licenses of qualified applicants;
- (7) Conduct hearings upon charges calling for discipline of a licensee or, denial, suspension, or revocation of a license;
- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (9) Cause the prosecution of all persons violating this chapter and [to] incur necessary expenses therefor; and
- (10) Keep a record of all its proceedings.”

SECTION 2. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any person who holds a license to practice nursing as a registered nurse in this State shall [have the right to] use the title “Registered Nurse” and the abbreviation “R.N.” No other person shall assume the title or use the abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.”

SECTION 3. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any person who holds a license to practice nursing as a licensed practical nurse in this State shall [have the right to] use the title “Licensed Practical Nurse” and the abbreviation “L.P.N.” No other person shall assume the title or use the abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.”

SECTION 4. Section 457-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§457-8.5]] Advanced practice registered nurse; qualifications; recognition; endorsement; fees.** (a) The board shall grant recognition as an advanced practice registered nurse provided the nurse has:

- (1) A current, unencumbered license as a registered nurse in this State;
- (2) An unencumbered license as a registered nurse in all other states in which the nurse is licensed; and
- (3) A master’s degree in nursing as specified in rules adopted by the board or a current certification for specialized and advanced nursing practice from a national certifying body recognized by the board; and
- (4) Paid appropriate fees.

(b) Any person who has been recognized by the board as an advanced practice registered nurse shall use the title “Advanced Practice Registered Nurse” and the abbreviation “A.P.R.N.”, or specialty title and abbreviation in accordance with rules adopted by the board. No other person shall assume the title or use the abbreviation or any other words, letter, sign, or device to indicate that the person using the same is an advanced practice registered nurse.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

## ACT 89

H.B. NO. 1838

A Bill for an Act Relating to Poultry Inspection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 161-3, Hawaii Revised Statutes, is amended by amending the definition of “processed” to read as follows:

“[“Processed”] “Prepared” or “processed” [means] includes, but is not limited to, slaughtered, canned, boned, salted, stuffed, rendered, cut up, or otherwise manufactured [or prepared].”

SECTION 2. Section 161-7, Hawaii Revised Statutes, is amended to read as follows:

**“[[§161-7]] General powers.** The department [of agriculture], through its board [shall regulate,], may:

- (1) Regulate, supervise, inspect, and control the [manufacture, processing,] slaughtering[,] of poultry and the manufacture, processing, transporta-

- tion, packaging, labeling, and disposal of poultry or poultry products involved in intrastate commerce[. The board may make,]; and
- (2) Adopt, amend, and repeal rules [and regulations] as are necessary to implement [the intent and purpose of] this chapter, subject to chapter 91, [governing] on the following matters:
- [(1)] (A) The issuance of licenses, including the class [or classes] of licenses to be issued;
- [(2)] (B) The type of equipment or facilities [which] that may be used in poultry slaughtering and poultry processing operations;
- [(3)] (C) The internal operations of poultry slaughterhouses and [of] poultry processing establishments;
- [(4)] (D) [Inspection] The procedures for ante-mortem and post-mortem inspections and the reinspection of poultry or poultry products used in processing, and [in] the disposal of diseased carcasses and parts of carcasses and poultry or poultry products found unwholesome or otherwise unfit for human consumption;
- [(5)] (E) The hours of slaughtering and processing, and the conditions under which slaughtering and processing may be conducted at other than scheduled times;
- [(6)] (F) The labeling and packaging of poultry or poultry products;
- [(7)] (G) [Storing.] The storing, handling, and transportation of poultry or poultry products;
- (H) The sanitary conditions of all establishments where poultry is slaughtered or poultry products are processed or prepared; and
- [(8)] (I) [Such] Any other [matters] matter as may be necessary [to implement] or desirable to effectuate the purposes of this chapter. Notwithstanding the foregoing provisions, the board, without regard to the notice and public hearing requirements of chapter 91, may adopt all federal poultry inspection regulations, including changes made from time to time by the United States Secretary of Agriculture, as rules for the efficient administration of this chapter. Prior to the effective date of any such rules, the department shall publish in a newspaper of general circulation a notice that includes:
- (i) Either a statement of the substance of the proposed rule adoption, amendment, or repeal; or a general description of the subjects involved and the purposes to be achieved by the proposed rule adoption, amendment, or repeal; and
- (ii) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, together with a description of where and how the requests may be made.
- The notice shall be mailed to all persons who have made a timely written request of the department for advance notice of these rules or of the department's rulemaking proceedings. The department may require reimbursement for the cost of preparing and mailing the copies."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.



SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

ACT 90

H.B. NO. 1839

A Bill for an Act Relating to Meat Inspection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Reinspection” means the re-examination of meat and meat products previously inspected and the inspection of meat and meat products during processing.”

SECTION 2. Section 159-7, Hawaii Revised Statutes, is amended to read as follows:

“§159-7 General powers. The department, through its board [is hereby vested with the following powers:], may:

- (1) Regulate, supervise, inspect, and control the [manufacture, processing,] slaughtering[,] of animals and the manufacture, processing, transportation, packaging, labeling, and disposal of meat or meat products involved in intrastate commerce[.];
- (2) Adopt, amend, and repeal rules as are necessary to implement this chapter, subject to chapter 91, on the following matters:
  - (A) The issuance of licenses, including the class of licenses to be issued[.];
  - (B) The type of equipment or facilities [which] that may be used in slaughtering and meat processing operations[.];
  - (C) The internal operations of slaughterhouses and [of] meat processing establishments[.];
  - (D) [Inspection] The procedures for ante-mortem and post-mortem inspections and the reinspection of meat or meat products used in processing, and the disposal of diseased carcasses and parts of carcasses and meat or meat products found to be unwholesome or otherwise unfit for human consumption[.];
  - (E) The hours of slaughtering[, and processing, and the conditions under which slaughtering and processing may be conducted at other than scheduled times[.];
  - (F) The labeling and packaging of meat or meat products[.];
  - (G) [Storing,] The storing, handling, and transportation of meat or meat products[.];
  - (H) [Sanitary] The sanitary conditions of all establishments where [meat or meat products] animals are slaughtered, and where meat or meat products are processed[, or prepared[.]; and
  - (I) Any other matter as may be necessary or desirable to [effectuate the purposes of] implement this chapter. Notwithstanding the foregoing provisions, the board, without regard to the notice and public hearing requirements of chapter 91, may adopt all federal meat inspection regulations, including changes made from time

to time by the United States Secretary of Agriculture, as rules for the efficient administration of this chapter. Prior to the effective date of any such rules, the department shall publish in a newspaper of general circulation a notice that includes:

- (i) Either a statement of the substance of the proposed rule adoption, amendment, or repeal; or a general description of the subjects involved and the purposes to be achieved by the proposed rule adoption, amendment, or repeal; and
- (ii) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, together with a description of where and how the requests may be made.

The notice shall be mailed to all persons who have made a timely written request of the department for advance notice of these rules or of the department's rulemaking proceedings. The department may require reimbursement for the cost of preparing and mailing the copies.

- (3) Provide for the inspection and certification of meat derived from exotic animals when these services are requested by producers of these products, and obtain from users of these services reimbursement for all costs incurred in the provision of these services."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

## ACT 91

H.B. NO. 1878

A Bill for an Act Relating to State Enterprise Zones.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that several technical changes are necessary to clarify chapter 209E, Hawaii Revised Statutes, "state enterprise zones," to simplify the implementation and improve the effectiveness of the program. These changes include:

- (1) Revision of the low-income hiring requirements to allow variation by family size and to allow updating annually rather than every ten years;
- (2) Deletion of references to the public service company tax and the bank and financial corporation tax;
- (3) Simplification of tax credit claims by eliminating the requirement for certified public accountant (CPA) verification; and
- (4) Other changes to update references to federal census data and federal enterprise zone criteria.

SECTION 2. Section 209E-2, Hawaii Revised Statutes, is amended:

1. By adding a new definition to be appropriately inserted and to read as follows:

““Low-income employee” means a person whose family income during the twelve months prior to being hired by a qualified business is less than the most recently published federal Department of Labor lower living standard income levels for the county in which the person is hired.”

2. By amending the definitions of “qualified business” and “taxes due the state” to read as follows:

““Qualified business” means any corporation, partnership, or sole proprietorship authorized to do business in the State which is[:]  
qualified under section 209E-9 and is:

- (1) Subject to the state corporate or individual income tax under chapter 235[, the public service company tax under chapter 239, or the bank and financial corporation tax under chapter 241];
- (2) Engaged in manufacturing, the wholesale sale of tangible personal property, or a service business or calling; or
- (3) Engaged in producing agricultural products where the business is a producer as defined in section 237-5[; and
- (4) Qualified under section 209E-9].

“Taxes due the State” means[:

- (1) In the case of a corporation, partnership, or sole proprietorship,] income taxes due under chapter 235[;
- (2) In the case of a public service company, tax due under chapter 239; and<sup>1</sup>
- (3) In the case of a financial institution, tax due under chapter 241].”

SECTION 3. Section 209E-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The governor [shall approve], upon the recommendation of the director, shall approve the designation of up to six areas in each county as enterprise zones for a period of twenty years. Any such area shall be located in one United States census tract or two or more contiguous United States census tracts in accordance with the [1980] most recent decennial United States Census. [Any area designated as an enterprise zone after 1990 United States census data becomes available shall be located in one United States census tract or two or more contiguous United States census tracts in accordance with the 1990 United States Census.] The census tract or tracts within which each enterprise zone is located also shall meet at least one of the following criteria:

- (1) Twenty-five per cent or more of the population have incomes below eighty per cent of the median family income of the county; or
- (2) The unemployment rate is 1.5 times the state average.”

SECTION 4. Section 209E-5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§209E-5]] Application review.** (a) The department shall review each application upon receipt and shall secure any additional information that the department deems necessary for the purpose of determining whether the area described in the application qualifies to be declared an enterprise zone.

(b) The department shall complete review of the application within sixty days of the last date designated for receipt of an application. After review of the applications, the department shall recommend to the governor within thirty days those applications with the greatest potential for accomplishing the purpose of this

chapter. If an application is denied, the governing body shall be informed of that fact together with the reasons for the denial.

[(c) If any portion of an area designated as an enterprise zone under this chapter is included in an area designated as an enterprise zone by an agency of the federal government, the area designated under this chapter shall be enlarged to include the area designated by the federal agency.]”

SECTION 5. Section 209E-9, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) Any business firm may be designated a “qualified business” for purposes of this chapter if the business:

- (1) Begins the operation of a trade or business within an enterprise zone;
- (2) During each taxable year has at least fifty per cent of its enterprise zone establishment’s gross receipts attributable to the active conduct of trade or business within the enterprise zone; and
- (3) [Forty] Has forty per cent or more of the average annual number of full-time employees employed at the business’ establishment or establishments located within the enterprise zone [meet the criteria set forth in 209E-4(b)(1) prior to employment.] who are low-income employees.

(b) A business also may be designated a “qualified business” for purposes of this chapter if the business:

- (1) Is actively engaged in the conduct of a trade or business in an area immediately prior to an area being designated an enterprise zone;
- (2) Meets the requirements of subsection (a)(2);
- (3) Increases the average number of full-time employees employed at the business’ establishment or establishments located within the enterprise zone by at least five per cent over the preceding year’s employment with not less than forty per cent of the increase being low-income employees [meeting the criteria of section 209E-4(b)(1) prior to employment] and during each subsequent taxable year maintains that higher level of employment; and
- (4) Increases by at least five per cent during each taxable year the average number of full-time low-income employees [meeting the criteria of section 209E-4(b)(1) until forty per cent or more of the employees employed at the business’ establishment or establishments within the enterprise zone meet the foregoing criteria].

(c) After designation as an enterprise zone, each qualified business firm in the zone shall submit annually to the department a statement requesting one or more of the tax incentives provided in this chapter. The statement shall be accompanied by an approved form supplied by the department and completed by an independent [certified public] accountant [licensed by the State] which states that the business firm meets the definition of a “qualified business”. A copy of the statement submitted by each business to the department shall be forwarded to the governing body of the county in which the enterprise zone is located.”

SECTION 6. Section 209E-6, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed.<sup>2</sup> New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 92

H.B. NO. 2038

A Bill for an Act Relating to Criminal Tax Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to consolidate the criminal tax penalties under title 14 by repealing each penalty section throughout title 14 and setting forth the criminal tax penalties applicable to all state taxes administered by the department of taxation in chapter 231. The legislature finds that providing a uniform standard of conduct and burden of proof for the evasion or defeat of a tax, failure to file a return or supply information, or making false or fraudulent statements will provide appropriate emphasis and support for the criminal enforcement of the state tax laws, similar to that found on the federal level.

SECTION 2. Chapter 231, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§231- Interpretation.** Sections 231-34, 231-35, and 231-36 shall be construed in accordance with judicial interpretations given to similar provisions of Title 26 of the United States Code; consistent therewith, the term “wilfully” shall mean a voluntary, intentional violation of a known legal duty.

**§231- Statute of limitation for criminal penalties.** Notwithstanding any laws to the contrary, prosecutions under sections 231-34, 231-35, and 231-36 shall be commenced within seven years after the commission of the offense.”

SECTION 3. Chapter 231, Hawaii Revised Statutes, is amended by amending the subtitle<sup>1</sup> for sections 231-34 through 231-39 to read as follows:

**“[MISDEMEANORS:] PENALTIES AND INTEREST”**

SECTION 4. Section 231-34, Hawaii Revised Statutes, is amended to read as follows:

**“§231-34 [False returns, etc.; penalty.] Attempt to evade or defeat tax.** Any person who [makes any false or fraudulent return or false statement in any return, with intent to defraud the State or to evade the payment of any tax or any part thereof, or who in any manner intentionally deceives or attempts to deceive the department of taxation in relation to any such tax,] wilfully attempts in any manner to evade or defeat any tax imposed under title 14, or the payment thereof, in addition to other penalties provided by law, shall be guilty of a class C felony and, upon conviction thereof, shall be fined not more than [\$1,000] \$100,000 or imprisoned not more than [one year,] five years, or both[.]; provided that a corporation shall be fined not more than \$500,000.”

SECTION 5. Section 231-35, Hawaii Revised Statutes, is amended to read as follows:

**“§231-35 [Failure to make return; misdemeanor.] Wilful failure to file return or supply information.** Any person [who by wilful neglect, fraud, act, or contrivance whatsoever used or practiced, evades or attempts to evade the assessment of the person’s property or of property concerning which the person is required to make a statement, list, or return for assessment, shall] required to make a return, make a report, keep any records, or supply any information required under title 14, who wilfully fails to make the return, make the report, keep the records, or supply the information, at the time or times required by law, in addition to other penalties provided by law, shall be [deemed] guilty of a misdemeanor[.] and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned not more than one year, or both; provided that a corporation shall be fined not more than \$100,000.”

SECTION 6. Section 231-36, Hawaii Revised Statutes, is amended to read as follows:

**“§231-36 [Abetting, etc., misdemeanor.** All persons wilfully aiding, abetting, or assisting in any manner whatsoever any person to commit any act constituted a misdemeanor by this chapter, shall be deemed guilty of a misdemeanor.] **False and fraudulent statements; aiding and abetting.** (a) Any person who wilfully makes and subscribes any return, statement, or other document required to be made under title 14, which contains or is verified by a written declaration that is made under the penalties of perjury, and which the person does not believe to be true and correct as to every material matter shall be guilty of a class C felony and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned not more than three years, or both; provided that a corporation shall be fined not more than \$500,000.

(b) Any person who wilfully aids or assists in, or procures, counsels, or advises the preparation or presentation of any tax return, affidavit, claim, or other document required to be made under title 14, which is fraudulent or is false as to any material matter, regardless of whether the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document shall be guilty of a class C felony and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned not more than three years, or both; provided that a corporation shall be fined not more than \$500,000.”

SECTION 7. Section 235-61, Hawaii Revised Statutes, is amended to read as follows:

**“§235-61 Withholding of tax on wages.** (a) As used in this section:

- (1) “Wages” means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for the employee’s employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of this chapter;
- (2) “Employee” includes an officer or elected official, or any other employee;
- (3) “Employer” means (A) the person or government for whom an individual performs or performed any service, of whatever nature, as the employee of such person or government, and (B) the person having control of the payment of the wages if the employer<sup>2</sup> as heretofore defined does not have control thereof, and (C) any person subject to the jurisdiction of the State and paying wages on behalf of an employer<sup>2</sup> as

heretofore defined if the employer is not subject to the jurisdiction of the State; provided that the term employer<sup>2</sup> shall not include any government that is not subject to the laws of the State except as, and to the extent that, it consents to the application of sections 235-61 to 235-67 to it.

(b) Every employer, as defined herein, making payment of wages, as herein defined, to employees, shall deduct and withhold from such wages an amount of tax determined as provided in this section.

(c) For each withholding period (whether weekly, biweekly, monthly, or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 235-51 upon each employee's annual wage, as estimated from the employee's current wage in any withholding period. The tax for the taxable year shall be calculated upon the following assumptions:

- (1) That the employee's annual wage, as estimated from the employee's current wage in the withholding period, will be the employee's sole income for the taxable year;
- (2) That there will be no deductions therefrom in determining adjusted gross income;
- (3) That in determining taxable income there shall be a standard deduction allowance which shall be an amount equal to one exemption (or more than one exemption if so prescribed by the director) unless (A) the taxpayer is married and the taxpayer's spouse is an employee receiving wages subject to withholding, or (B) the taxpayer has withholding exemption certificates in effect with respect to more than one employer. For the purposes of this section, any standard deduction allowance under this paragraph shall be treated as if it were denominated a withholding exemption;
- (4) That in determining taxable income there also will be deducted the amount of exemptions and withholding allowances granted to the employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and
- (5) If it appears from the certificate filed pursuant to subsection (f) that the employee, under section 235-93, is entitled to make a joint return, that the employee and the employee's spouse will so elect.

(d) Alternatively, at the election of the employer, the employer may deduct and withhold from each employee an amount of tax determined on the basis of tables to be prepared and furnished by the department of taxation, which amount of tax shall be substantially equivalent to the amount of tax provided by subsection (c) hereof.

(e) The department, by [regulation,] rule, may require the deduction and withholding of tax from any remuneration or compensation paid for or attributable to services that are not subject to the general excise tax imposed by chapter 237, whether or not such withholding is provided for hereinabove. Every person so required to deduct and withhold tax, or from whom tax is required to be deducted and withheld, shall be subject to sections 235-61 to 235-67, and every person so required to deduct and withhold tax shall be deemed an employer for the purposes of this chapter.

The department, by [regulation,] rule, may exempt any employer from the requirement of deduction and withholding of taxes, even though [such] the requirement is imposed by this section, if and to the extent that the department finds [such] the requirement unduly onerous or impracticable of enforcement.

(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating

to the number of exemptions which the employee claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts, and also showing whether the employee is married and is, under section 235-93, entitled to make a joint return. The certificate shall be in such form and contain such information as may be prescribed by the department.

If, on any day during the calendar year, there is a change in the employee's marital status and the employee no longer is entitled to make a joint return, or the number of exemptions to which the employee is entitled is less than the number of exemptions claimed by the employee on the certificate then in effect with respect to the employee, the employee shall within ten days thereafter furnish the employer with a new certificate showing the employee's present marital status, or relating to the number of exemptions which the employee then claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital status and though previously not entitled to make a joint return the employee now is so entitled, or the number of exemptions to which the employee is entitled is greater than the number of exemptions claimed, the employee may furnish the employer with a new certificate showing the employee's present marital status, or relating to the number of exemptions which the employee then claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code.

(g) In determining the deduction allowed by subsection (c)(4) an employee shall be entitled to withholding allowances or additional reductions in withholding under this subsection. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account (to the extent and in the manner provided by rules) estimated itemized deductions and tax credits allowable under this chapter; and such additional deductions and other items as may be specified by the director in rules. For the purposes of this subsection a fractional number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to the next whole number.

(1) As used in this subsection, unless the context otherwise requires:

(A) "Estimated itemized deductions" means the aggregate amount which the employee reasonably expects will be allowed as deductions under sections 235-2.3, 235-2.4, and 235-7, other than the deductions referred to in Internal Revenue Code section 151 and those deductions required to be taken into account in determining adjusted gross income under Internal Revenue Code section 62(a) (with the exception of paragraph 10 thereof) for the estimation year. In no case shall [such] the aggregate amount be greater than the sum of:

- (i) The amount of [such] the deductions reflected in the employee's net income tax return for the taxable year preceding the estimation year of (if [such] a return has not been filed for [such] the preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year[.]; or
- (ii) The amount of estimated itemized deductions and tax credits allowable under this chapter and [such] any additional deductions to which entitled[.]; and
- (iii) The amount of the employee's determinable additional deductions for the estimation year.



- (B) "Estimated wages" means the aggregate amount which the employee reasonably expects will constitute wages for the estimation year[.];
  - (C) "Determinable additional deductions" means those estimated itemized deductions which:
    - (i) Are in excess of the deductions referred to in subparagraph (A) reflected on the employee's net income tax return for the taxable year preceding the estimation year; and
    - (ii) Are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of such deductions on the net income tax return for the estimation year.
  - (D) "Estimation year", in the case of an employee who files the employee's return on the basis of a calendar year, means the calendar year in which the wages are paid; provided that in the case of an employee who files the employee's return on a basis other than the calendar year, the employee's estimation year, and the amounts deducted and withheld to be governed by [such] the estimation year, shall be determined under rules prescribed by the director of taxation.
- (2) Under this subsection, the following special rules shall apply:
- (A) Married individuals. The number of withholding allowances to which a husband and wife are entitled under this subsection shall be determined on the basis of their combined wages and deductions. This subparagraph shall not apply to a husband and wife who filed separate returns for the taxable year preceding the estimation year and who reasonably expect to file separate returns for the estimation year[.];
  - (B) Limitation. In the case of employees whose estimated wages are at levels at which the amounts deducted and withheld under this chapter generally are insufficient (taking into account a reasonable allowance for deductions and exceptions) to offset the liability for tax under this chapter with respect to the wages from which [such] the amounts are deducted and withheld, the director may by rule reduce the withholding allowances to which [such] those employees would, but for this subparagraph, be entitled under this subsection[.];
  - (C) Treatment of allowances. For purposes of this chapter, any withholding allowance under this subsection shall be treated as if it were denominated a withholding exemption.
- (3) The director may prescribe tables by rule under chapter 91 pursuant to which employees shall determine the number of withholding allowances to which they are entitled under this subsection.

[ (h) Any individual required to supply information to the individual's employer under this section who wilfully supplies false or fraudulent information, or who wilfully fails to supply information under this section which would require an increase in the tax to be withheld, shall be fined not more than \$500, or imprisoned not more than six months, or both.

(i)] (h) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle C, chapter 24 of the Internal Revenue Code operative in this section."

SECTION 8. Section 235-68, Hawaii Revised Statutes, is amended to read as follows:

**“§235-68 Withholding of tax on the disposition of real property by nonresident persons.** (a) As used in this section:

“Nonresident person” means every person other than a resident person.

“Property” or “real property” [means “property” or “real property” as the] has the meaning as the same term is defined in section 231-1.

“Resident person” means any individual included in the definition of resident<sup>2</sup> in section 235-1; any corporation incorporated or granted a certificate of authority under chapter 415, 415A, or 415B; any partnership formed or registered under chapter 425 or 425D; any foreign partnership qualified to transact business pursuant to chapter 425 or 425D; or any trust included in the definition of resident trust<sup>2</sup> in section 235-1; or any estate included in the definition of resident estate<sup>2</sup> in section 235-1.

“Transferee” means any person, the State and the counties and their respective subdivisions, agencies, authorities, and boards, acquiring real property which is located in Hawaii.

“Transferor” means any person disposing real property which is located in Hawaii.

(b) Unless otherwise provided in this section, every transferee shall deduct and withhold a tax equal to five per cent of the amount realized on the disposition of Hawaii real property. Every person required to withhold a tax under this section is made liable for the tax and is relieved of liability for or upon the claim or demand of any other person for the amount of any payments to the department made in accordance with this section.

(c) Every transferee required by this section to withhold tax under subsection (b) shall make a return of the amount withheld to the department of taxation not more than twenty days following the transfer date.

(d) No person shall be required to deduct and withhold any amount under subsection (b), if the transferor furnishes to the transferee an affidavit by the transferor stating the transferor’s taxpayer identification number and:

- (1) The transferor is a resident person; or
- (2) That by reason of a nonrecognition provision of the Internal Revenue Code as operative under this chapter or the provisions of any United States treaty, the transferor is not required to recognize any gain or loss with respect to the transfer;
- (3) A brief description of the transfer; and
- (4) A brief summary of the law and facts supporting the claim that recognition of gain or loss is not required with respect to the transfer. This subsection shall not apply if the transferee has actual knowledge that the affidavit referred to in this subsection is false.

[(e) Any transferor who wilfully supplies false or fraudulent information on an affidavit pursuant to subsection (d) or (g) or on an application for a withholding certificate pursuant to subsection (f) shall be in violation of section 231-34 and shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(f) (e) An application for a withholding certificate may be submitted by the transferor to the department setting forth:

- (1) The name, address, and taxpayer identification number, if any, of the parties to the transaction and the location and general description of the real property to be transferred; and
- (2) A calculation and written justification showing that the transferor will not realize any gain with respect to the transfer; or

- (3) A calculation and written justification showing that there will be insufficient proceeds to pay the withholding required under subsection (b) after payment of all costs, including selling expenses and the amount of any mortgage or lien secured by the property.

Upon receipt of the application, the department shall determine whether the transferor has realized or will realize any gain with respect to the transfer, or whether there will be insufficient proceeds to pay the withholding. If the department is satisfied that no gain will be realized or that there will be insufficient proceeds to pay the withholding, it shall issue a withholding certificate stating the amount to be withheld, if any.

The submission of an application for a withholding certificate to the department does not relieve the transferee of its obligation to withhold or to make a return of the tax under subsections (b) and (c).

~~[(g)]~~ (f) No person shall be required to deduct and withhold any amount under subsection (b) if one or more individual transferors furnishes to the transferee an affidavit by the transferor stating the transferor's taxpayer identification number, that for the year preceding the date of the transfer the property has been used by the transferor as a principal residence, and that the amount realized for the property does not exceed \$300,000.

~~[(h)]~~ (g) The department may enter into written agreements with persons who engage in more than one real property transaction in a calendar year or other persons to whom meeting the withholding requirements of this section are not practicable. The written agreements may allow the use of a withholding method other than that prescribed by this section or may waive the withholding requirement under this section."

SECTION 9. Section 235-95, Hawaii Revised Statutes, is amended to read as follows:

**"§235-95 Partnership returns.** Every partnership shall make a return for each taxable year upon forms prescribed by the department of taxation, itemizing its gross income and allowable deductions and including the names and addresses of the persons who would be entitled to share in the income if distributed and the amount of each distributive share. The return shall be authenticated by the signature of any one of the partners, under the penalties provided by section [231-34,] 231-36, and the fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership. All provisions of this chapter relating to returns shall be applicable to partnership returns except as specifically otherwise stated in this section."

SECTION 10. Section 235-98, Hawaii Revised Statutes, is amended to read as follows:

**"§235-98 Returns; form, verification and authentication, time of filing.** Returns shall be in such form as the department of taxation may prescribe from time to time and shall be verified by written declarations that the statements therein made are subject to the penalties prescribed in section [231-34,] 231-36. Corporate returns shall be authenticated by the signature of the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act, under the penalties prescribed by section [231-34,] 231-36. The fact that an individual's name is signed on the corporation return shall be prima facie evidence that the individual is authorized to sign the return on behalf of the corporation.

The department may grant a reasonable extension of time for filing returns under such rules and regulations as it shall prescribe. Except in the case of persons who are outside the United States, no extension shall be for more than six months."

SECTION 11. Section 235-105, Hawaii Revised Statutes, is amended to read as follows:

**"§235-105 Failure to keep records, render returns, or make reports[, misdemeanors.] by responsible persons.** [(a) Every person required by sections 235-92, 235-94, 235-95, and 235-97, or any such section, to make a declaration of estimated tax or a return, who wilfully fails to make the declaration or return at the time or times required by law, or wilfully fails to authenticate the declaration or return, if made, as required by law, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Every person required by section 235-55(b) or section 235-101(b) to make a report, who wilfully fails to make such report at the time or times required by law shall be fined not more than \$1,000 or imprisoned not more than six months, or both.

(c) Every person required by regulations duly promulgated under section 235-96 or by notice duly served under section 235-102(b), to supply any information, who wilfully fails to supply such information at the time or times required by the department of taxation, shall be fined not more than \$50 for the first offense and \$100 for the second and each succeeding offense.

(d) Every person required by section 235-102(a) to keep any records who wilfully fails to keep such records shall be fined not more than \$500 or imprisoned not more than six months, or both.

(e) The penalties provided by [this section and section 235-61 and 235-65] sections 231-34, 231-35, and 231-36 shall apply to any person, whether acting as principal, agent, officer, or director for oneself, itself, or another person and shall apply to each single violation. [Such] These penalties shall be in addition to other penalties provided by law."

SECTION 12. Section 237-9, Hawaii Revised Statutes, is amended to read as follows:

**"§237-9 Licenses; penalty.** (a) Any person who shall have a gross income or gross proceeds of sales or value of products upon which a privilege tax is imposed by this chapter, as a condition precedent to engaging or continuing in such business, shall in writing apply for and obtain from the department of taxation, upon a one-time payment of the sum of \$20, a license to engage in and to conduct such business, upon condition that the person shall pay the taxes accruing to the State under this chapter, and the person shall thereby be duly licensed to engage in and conduct the business. Any person licensed or holding a license under this chapter before January 1, 1990, shall pay a one-time license renewal fee of \$20 on or before January 31, 1990, as a condition precedent to engaging or continuing in business. The license shall not be transferable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The license may be inspected and examined, and shall at all times be conspicuously displayed at the place for which it is issued.

(b) Licenses and applications therefor shall be in such form as the department shall prescribe, except that where the licensee is engaged in two or more forms of business of different classification, the license shall so state on its face. The license provided for by this section shall be effective until canceled in writing. Any application for the reissuance of a previously canceled license identification number

after December 31, 1989, shall be regarded as a new license application and subject to the payment of the one-time license fee of \$20. The director may revoke or cancel any license issued under this chapter for cause as provided by rules adopted pursuant to chapter 91.

(c) If the license fee is paid, the department shall not refuse to issue a license or revoke or cancel a license for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237-46 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.

[(d) Any person who may lawfully be required by the State, and who is required by this chapter, to secure a license as a condition precedent to engaging or continuing in any business subject to taxation under this chapter, who engages or continues in the business without securing a license in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without securing a license in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be that prescribed by section 237-48 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.]”

SECTION 13. Section 237-41, Hawaii Revised Statutes, is amended to read as follows:

**“§237-41 Records to be kept; examination[; penalties].** Every taxpayer shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross proceeds of sales and gross income, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. [Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 237-48 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.]”

SECTION 14. Section 237-43, Hawaii Revised Statutes, is amended to read as follows:

**“§237-43 Bulk sales[; penalties].** (a) Report. In any case of the sale in bulk of the whole, or a large part of a stock of merchandise and fixtures, or merchandise, or fixtures, or other assets of a business, otherwise than in the ordinary course of trade, and in the regular and usual prosecution of the seller’s business, the seller shall make a written and verified report of the bulk sale to the department of taxation not later than ten days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser. The report shall contain the name and address of the purchaser, a brief description of the property sold and the purchase price, the date when the sale is to be or was consummated, and such other facts as the department may require. The purchaser may make the report for the seller.

(b) Tax clearance. The purchaser of the property shall withhold payment of the purchase price until the receipt of a certificate from the department to the effect that all taxes, penalties, and interest levied or accrued under this chapter against the

seller, or constituting a lien upon the property, have been paid, which certificate shall show on its face that the department has had notice of the bulk sale, and shall also show the names of the seller and purchaser, a brief description of the property sold, and the date of consummation of the sale, together with such other information as the department shall prescribe.

(c) Purchaser's liability. If the required report of the bulk sale is not made, or if the taxes, penalties, and interest shall not be paid within twenty days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser, or within such further time as the department may allow, the purchaser shall be personally liable to pay to the State the amount of all taxes, penalties, and interest levied or accrued under this chapter against the seller or constituting a lien upon the property, together with penalties and interest thereafter accruing, not exceeding, however, the amount of the purchase price, but the issuance of a certificate in the prescribed form shall be a complete defense to such liability of the purchaser. In any case of such liability upon the part of the purchaser, a written report thereof shall be made by the purchaser upon the next due date for the payment of gross income taxes.

(d) Purchase price defined. For the purposes of this section the "purchase price" shall include money, or the value of any consideration other than money.

[(e) Penalties. Failure to make any report required by this section shall constitute a misdemeanor punishable by a fine of not more than \$100. In addition, penalties and interest shall apply to such delinquent taxes if not paid within twenty days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser, or within such further time as the department may allow, whether or not an assessment of the tax has been made or notice of the delinquency given.

(f) (e) Purchaser's remedy. The purchaser shall have the purchaser's remedy against the seller for the amount of taxes, penalties, or interest paid by the purchaser."

SECTION 15. Section 237D-12, Hawaii Revised Statutes, is amended to read as follows:

**"§237D-12 Records to be kept; examination[; penalties].** Every operator shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross rental or gross rental proceeds relating to transient accommodations taxed under this chapter, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. [Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.]"

SECTION 16. Section 244D-16, Hawaii Revised Statutes, is amended to read as follows:

**"§244D-16 Penalties.** (a) The penalties provided by this section shall apply to any person whether acting as principal, agent, officer, or director, for oneself, itself, or for another person, and shall apply to each single violation, but shall not apply to any act the punishment for which is elsewhere prescribed by this chapter.

(b) Any dealer who sells liquor without a permit as required by this chapter shall be fined not more than \$1,000.

[(c) Any person who makes any false or fraudulent or false statement in any return, with intent to defraud the State or to evade the payment of any tax or any part thereof imposed by this chapter, or who in any manner intentionally deceives or attempts to deceive the director of taxation or the director's authorized agent in relation to any such tax shall be punished as provided in section 231-34.

(d) Any person who fails or refuses to permit the examination of any book, paper, account, record, or property by the director, the commission, or the authorized agent of either of them, as required by this chapter, and any person who fails, neglects, or refuses to comply with or violates the rules and regulations prescribed, adopted, and promulgated by the director under this chapter, shall be fined not more than \$500, or imprisoned not more than six months, or both.]”

SECTION 17. Section 245-2, Hawaii Revised Statutes, is amended to read as follows:

“**§245-2 License.** It shall be unlawful for any person to engage in the business of a wholesaler or dealer in the State without having received first a license therefor issued by the department of taxation under this chapter; provided that this section shall not be construed to supersede any other law relating to licensing of persons in the same business.

The license shall be issued by the department upon application therefor, in such form and manner as shall be required by rule of the department, and the payment of a fee of \$2.50, and shall be renewable annually on July 1 for the twelve months ending the succeeding June 30.

[Any person who may be required by the State, and who is required by this chapter, to secure a license as a condition precedent to engaging or continuing to act as a wholesaler or dealer, who acts as a wholesaler or dealer without securing a license in conformity with this chapter, and any officer or agent of any firm who aids or abets the firm to act as wholesaler or dealer without securing a license in conformity with this chapter, shall be guilty of a misdemeanor, punishable as provided in the case of other misdemeanors by section 245-14(b).]”

SECTION 18. Section 247-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any party, with the exception of governmental bodies, agencies, or officers, to a document or instrument subject to this chapter, or the party's authorized representative, shall file, in the manner and place which the director of taxation shall prescribe, a certificate of conveyance setting forth the actual and full consideration of the property transferred, including any lien or encumbrance on the property, and such other facts as the director may by rules prescribe. The certificate of conveyance shall be verified by a written declaration thereon that the statements made therein are subject to the penalties [prescribed for false declaration in section 247-11.] in section 231-36. The certificate shall be appended to the document or instrument made subject to this chapter and shall be filed with the director simultaneously with the aforementioned document or instrument for the imprinting of the required seal or seals.”

SECTION 19. Section 251-11, Hawaii Revised Statutes, is amended to read as follows:

**“[[§251-11]] Records to be kept; examination[; penalties].** Every person shall keep in the English language within the State, and preserve for a period of three years, suitable records relating to the surcharge tax levied and assessed under this chapter, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, operators records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. [Any person violating this section shall be guilty of a misdemeanor; and any officer or director of a corporation who permits, aids, or abets the corporation to violate this section likewise shall be guilty of a misdemeanor. The penalty for the misdemeanor shall be that prescribed by section 231-34 for violation of that section.]”

SECTION 20. Section 231-12, Hawaii Revised Statutes, is repealed.

SECTION 21. Section 231-38, Hawaii Revised Statutes, is repealed.

SECTION 22. Section 235-65, Hawaii Revised Statutes, is repealed.

SECTION 23. Section 235-106, Hawaii Revised Statutes, is repealed.

SECTION 24. Section 236D-14, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 237-48, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 237D-17, Hawaii Revised Statutes, is repealed.

SECTION 27. Section 238-12, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 243-15, Hawaii Revised Statutes, is repealed.

SECTION 29. Section 245-14, Hawaii Revised Statutes, is repealed.

SECTION 30. Section 247-11, Hawaii Revised Statutes, is repealed.

SECTION 31. Section 247-12, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 251-16, Hawaii Revised Statutes, is repealed.

SECTION 33. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 34. This Act shall take effect on July 1, 1995.

(Approved June 7, 1995.)

#### Notes

1. So in original.

2. Should be quoted.

3. Edited pursuant to HRS §23G-16.5.



## ACT 93

S.B. NO. 305

A Bill for an Act Relating to the Income Tax Credit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the fourteenth year in a row and that the legislature is constitutionally required to provide a tax credit or tax refund.

The purpose of this Act is to provide for an income tax credit of \$1 to the taxpayers of the State to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the food/excise tax credit allowed under section 235-55.8, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.8(a), Hawaii Revised Statutes, a general income tax credit of \$1 that shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.8(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.8(c), Hawaii Revised Statutes, to the contrary notwithstanding, each person for whom the qualified exemption is claimed shall have been a resident of the State, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this tax credit because of age or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1995. Section 235-55.8(d), (e), and (f), Hawaii Revised Statutes, applies to this section and is incorporated herein to the extent not in conflict with this section.

(b) This section implements the provisions of Article VII, section 6, of the Constitution of the State of Hawaii, enacted by the 1978 Constitutional Convention, which reads as follows:

**“DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

A Bill for an Act Relating to Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions[,] where the debt, amount, [or] damages, or [the] value of the property claimed[,] does not exceed \$20,000, except in civil actions involving summary possession or ejectment, in which case[,] the district court shall have jurisdiction over any counterclaim otherwise properly brought [before the district court] by any defendant in [such summary possession or ejectment] the action if the counterclaim arises out of and refers to the land or premises[,] the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney’s commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed \$10,000. The district courts shall also have original jurisdiction of suits for specific performance when the fair market value of such specific performance does not exceed \$20,000 and original jurisdiction to issue injunctive relief in residential landlord-tenant cases under chapter 521.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

A Bill for an Act Relating to State Service Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

“**§92-28 State service fees[,] increase or decrease of.** Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency, with the approval of the governor, may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that [the]:

(1) The authority to increase or decrease fees or nontax revenues shall extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147,

- 150, 171, 188, 189, 231, 269, 271, 304, 305, 306, 308, 321, 338, 373, 412, 415, 421, [422,] 425, 431, 438, 439, 440, 442, 447, 448, 452, 453, 455, 456, 457, 458, 459, 460, 461, 463, 464, 466, 467, 469, 471, 482, 485, 501, 502, 505, 514A, 572, 574, and 846 (pt II); [and provided further that this]
- (2) This section shall not apply to [fees charged by the University of Hawaii or to] judicial fees as may be set by any chapter [mentioned above.] cited in this section; and
- (3) Any increase or decrease in tuition by the University of Hawaii shall be preceded by a public hearing held at least one semester before the effective date of the proposed increase."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1995.)

## ACT 96

S.B. NO. 1245

A Bill for an Act Relating to Social Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 347D-1, Hawaii Revised Statutes, is amended to read as follows:

**“§347D-1 Hawaii state coordinating council on deafness; establishment.**

(a) There is established a Hawaii state coordinating council on deafness within the department of health for administrative purposes. The council shall consist of[:

- (1) Seven representatives of state or county agencies;
- (2) Seven members who are deaf, hard-of-hearing, or deaf-blind, or who are immediate family members of deaf, hard-of-hearing, or deaf-blind persons, of which two may be certified or locally screened interpreters; and
- (3) Seven members of the public who have an interest in deaf, hard-of-hearing, or deaf-blind persons, of which two may be certified or locally screened interpreters.] thirteen members, seven of whom shall be deaf, hard-of hearing, or deaf-blind persons, or immediate family members of deaf, hard-of-hearing, or deaf-blind persons. Two members may be certified or locally screened interpreters.

(b) Members shall be appointed by the governor without the necessity of the advice and consent of the senate and shall serve at the pleasure of the governor.

(c) Members appointed shall include at least one resident from each of the counties of Honolulu, Hawaii, Maui, and Kauai.

(d) Seven or more members shall constitute a quorum to conduct business and a concurrence of the majority of the members of the quorum shall be necessary to validate any act of the council.

[c)] (e) Members shall elect the officers of the council.

[d)] (f) Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

[(e)] (g) Interpreters who serve as [voting] council members shall not be hired to interpret at any council meetings.”

SECTION 2. Section 348E-2, Hawaii Revised Statutes, is amended to read as follows:

“§348E-2 **Commission on persons with disabilities.** There is established the commission on persons with disabilities within the department of health for administrative purposes, to be composed of [fifteen] nine members to be appointed by the governor for staggered terms subject to section 26-34. The members of the commission shall include at least [nine] five persons with various disabling conditions, or parents[,] or guardians of persons with disabilities. [The directors of health, human services, labor and industrial relations, human resources development, transportation, the comptroller, the superintendent of education, and the president of the University of Hawaii or their representatives shall be ex officio nonvoting members.] The members appointed shall include at least one resident from each of the counties of Honolulu, Hawaii, Maui, and Kauai. [Eight voting] Five or more members shall constitute a quorum to do business and a concurrence of the majority of the [voting] members of the quorum shall be necessary to validate any act of the commission.

The members shall serve without compensation, but shall be reimbursed their necessary and reasonable expenses incurred in the performance of their duties, including travel expenses. The chairperson shall be elected annually by the members; provided that [only nongovernmental members shall be elected chairperson; and provided further that] no member may serve as chairperson for more than two consecutive [years.] terms.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 7, 1995.)

## ACT 97

S.B. NO. 1567

A Bill for an Act Relating to Dishonored Checks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-35.5, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~§40-35.5[~~]~~] **Assessment and collection of service charges for dishonored items.** (a) Unless otherwise provided by law or rules having the force and effect of law, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of [\$7.50]:

(1) \$15 for any check<sup>1</sup>; and

(2) \$7.50 for any draft, certificate of deposit, or other negotiable instrument,

the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the service charge in cash or by certified or cashier’s check

or by bank or postal money order. The service charge shall be deposited with the director of finance as a realization of the general fund.

(b) The service charge shall be enforced as follows:

(1) For charges due on dishonored checks written for payment of any taxes administered by the department of taxation under title 14, the charges shall be a non-waiverable penalty and shall be made a part of the tax for which the payment was made in the same manner as penalties are made part of the tax under section 231-39; and

(2) For all other charges paid to the State by check, the public accountant shall refer the entire matter, including the initial check and interest on the penalty, to the department of the attorney general for collection.

(c) Interest on the penalty at the rate of two-thirds of one per cent a month or fraction of a month shall be paid for the period beginning the first calendar day after the date of notification from the bank that the check is dishonored to the date paid.

(d) All penalties, including interest thereon, for dishonored checks shall be debts due the State.

(e) Penalties and interest collected for dishonored checks by the department of taxation pursuant to this section shall be collected in the same manner as are taxes under chapter 231. The penalty shall be a realization of the general fund in the same manner as other penalties collected by the department."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1996.

(Approved June 7, 1995.)

**Note**

1. Prior to amendment ""," appeared here.

**ACT 98**

H.B. NO. 18

A Bill for an Act Relating to Jitney Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-16.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The legislature finds and declares the following:

- (1) The orderly regulation of vehicular traffic on the streets and highways of Hawaii is essential to the welfare of the State and its people[.];
- (2) Privately-operated public passenger vehicle service provides vital transportation links within the State. Public passenger vehicle service operated in the counties enables the State to provide the benefits of privately-operated, demand-responsive transportation services to its people and to persons who travel to the State for business or tourist purposes[.];
- (3) The economic viability and stability of privately-operated public passenger vehicle service is consequently a matter of statewide importance[.];
- (4) The policy of the State is to promote safe and reliable privately-operated public passenger vehicle service [in order] to provide the

benefits of that service. In furtherance of this policy, the legislature recognizes and affirms that the regulation of privately-operated public passenger vehicle service is an essential governmental function[.];

- (5) The policy of the State is to require that counties regulate privately-operated public passenger vehicle service and not subject a county or its officers to liability under the federal antitrust laws[.];
- (6) The policy of the State is to further promote privately-operated public passenger vehicle service, including but not limited to, the [picking-up] picking up and discharge of passengers from various unrelated locations by taxicabs[.]; and
- (7) The policy of the State is to further promote privately-operated public passenger vehicle service by requiring jitney services not regulated by the counties to be under the jurisdiction of the public utilities commission. For the purposes of this paragraph, "jitney services" means public transportation services utilizing motor vehicles that have seating accommodations for six to twenty-five passengers, operate along specific routes during defined service hours, and levy a flat fare schedule."

SECTION 2. Section 271-5, Hawaii Revised Statutes, is amended to read as follows:

**"§271-5 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter[.];
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from this chapter. Nothing in this paragraph shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or certificate issued by the commission authorizing such transportation[.];
- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide taxicab service. "Taxicab" includes:
  - (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination;
  - (B) Any motor vehicle for hire having seating accommodations for eight or fewer passengers used in the movement of passengers on the public highways that may, as part of a continuous trip, pick up or discharge passengers from various unrelated locations; provided that they shall be regulated by the counties in accordance with section 46-16.5(c); and provided further that this subpara-

graph shall not apply to any exclusive rights granted by the department of transportation for taxicab services at facilities under the department's control; and

- (C) Any motor vehicle having seating accommodations for eight or [less] fewer passengers used in the movement of passengers on the public highways between a terminal, i.e. a fixed stand, in the Honolulu district, as defined in section 4-1 and a terminal in a geographical district outside the limits of the Honolulu district, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that the passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area[.];
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269[.];
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members[.];
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire[.];
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters, or blueprints[.];
- (8) Persons operating funeral cars or ambulances[.];
- (9) Persons operating motor vehicles in the transportation of garbage or refuse[.];
- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii[.];
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields[.];
- (12) Sugar plantations transporting sugarcane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture[.];
- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire[.];
- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading[.];
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading[.];
- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on the driver's way to or from the driver's place of employment[.];

- (17) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, and such transportation is provided only directly to and from the place of business of such person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter[.]; and
- (18) Persons conducting the type of county-regulated passenger carrying operation known as "jitney services". For the purposes of this paragraph, "jitney services" means public transportation services utilizing motor vehicles that have seating accommodations for six to twenty-five passengers, operate along specific routes during defined service hours, and levy a flat fare schedule."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**ACT 99**

H.B. NO. 39

A Bill for an Act Relating to Landing and Dockage Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide system of airports landing fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

In setting airports rates and charges, including landing fees, the director may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the director deems advisable.

If the director has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or



agreement, the director shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The director shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at such levels as to produce revenues which, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The director may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply such portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the director in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or agreement. If fees are established pursuant to this section, the department shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the director in accordance with this section is projected by the department to produce revenues which, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the department shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after the convening of the regular session, the legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five day period, the director shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.

Notwithstanding any other provision of law to the contrary, the department may waive landing fees and other aircraft charges established under this section at any airport owned or controlled by the State whenever:

- (1) The governor declares a state of emergency; and
- (2) The department determines that the waiver of landing fees and other charges for the aircraft is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.”

SECTION 2. Section 266-13, Hawaii Revised Statutes, is amended to read as follows:

**“§266-13 Dockage. (a)** All watercraft [lying]:

- (1) Lying idle alongside any wharf, pier, bulkhead, quay, or landing belonging to or controlled by the State[, and all watercraft discharging];  
or
- (2) Discharging or receiving freight or passengers on or from any wharf, pier, bulkhead, quay, or landing[,] belonging to or controlled by the State, while made fast or lying alongside of the [same,] wharf, pier, bulkhead, quay, or landing;

shall pay to the department of transportation such rates of dockage as shall be fixed by the department.

(b) All watercraft that receive or discharge freight or passengers:

- (1) [from] From or upon any wharf, pier, bulkhead, quay, or landing, by means of boats, lighters, or otherwise, while lying at anchor or under steam in any bay, harbor, or roadstead[.]; or
- (2) [while] While lying in any slip or dock belonging to or controlled by the State, but not made fast to or lying alongside [of] any wharf, pier, bulkhead, quay, or landing[.];

shall pay such rates of dockage as shall be fixed by the department.

(c) Notwithstanding subsections (a) and (b), the department may waive dockage and other charges at any wharf, pier, bulkhead, quay, landing, slip, or dock belonging to or controlled by the State whenever:

- (1) The governor declares a state of emergency; and
- (2) The department determines that the waiver of dockage fees and other charges is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.

(d) Any watercraft [that leaves] leaving any [such] wharf, pier, bulkhead, quay, landing, slip, dock, basin, or waters belonging to or controlled by the State without paying [it] dockage and other charges, with intent to evade the payment thereof, shall be liable to pay double rates.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 100

H.B. NO. 181

A Bill for an Act Relating to an Automatic Fingerprint Identification System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-74, Hawaii Revised Statutes, is amended to read as follows:

**“§571-74 Rules and standards; investigation and questioning; fingerprinting and photographing.** The judges of the family courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide and control the police, within their respective jurisdictions, in the handling of cases involving minors coming within the provisions of this chapter. The rules and standards may include limitations and restrictions concerning the fingerprinting and photographing of any child in police custody[.]; provided that when any child [commits an act which, if committed by an adult, would be a felony, such] of

the age of twelve years or older who comes within section 571-11(1) is taken into custody for committing an act which, if committed by an adult would be a felony, or for an act involving theft in excess of \$100 or criminal property damage in excess of \$100, the rules and standards concerning fingerprinting shall not apply. The police shall report all police designated fields of information collected on juvenile offenders to the juvenile justice information system. The rules shall be enforceable as orders of the court."

SECTION 2. Section 571-84, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) [Except for immediate use in a criminal case, any] Any photograph or fingerprint taken of any child [shall not] may be used or circulated [for any other purpose and shall be subject to all] only as permitted by the rules and standards provided for in section 571-74.

(e) The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection and use only by persons whose official duties are concerned with the provisions of this chapter, except as provided in [subsection] subsections (d) and (f) or as otherwise ordered by the court."

SECTION 3. Section 846-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The attorney general shall select and enforce systems of identification, including fingerprinting, without the necessity of a court order, of all [persons] adults arrested for a criminal offense, [or] children who are twelve years of age or older and who are taken into custody for committing an act which, if committed by an adult would be a felony, or for an act involving theft in excess of \$100 or criminal property damage in excess of \$100, and all persons to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge, and provide for the collection, recording, and compilation of data and statistics relating to crime[.]; provided that, unless a child's electronic or physical fingerprint record is otherwise authorized to be entered into the system, and notwithstanding any law to the contrary, the attorney general shall purge any child's electronic or physical fingerprint record entered into the identification system pursuant to this subsection, upon court order, when the child attains the age of twenty five years, when the child is determined not to be responsible for committing the act for which the fingerprints were taken, or when child is not informally adjusted under section 571-31.4 and a petition is not filed within one year from the date the child is taken into custody. The court shall notify the attorney general when a child is determined not to be responsible for committing the act for which the fingerprints were taken. A child's fingerprint record shall not be transmitted to any system outside the state.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of the systems of identification and statistics in their respective jurisdictions; provided that those expenses in connection with matters exclusively within the control of the State shall be borne by the State; and provided further that the State shall provide for the management and equipment maintenance of the computerized fingerprint identification system.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in a manner as shall be in

keeping with the most approved and modern methods of identification and of the collection and compilation of the statistics.

The attorney general shall keep a uniform record of the work of the courts, prosecuting officers, the police, and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable [(1)] for the [study];

- (1) Study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law; and
- (2) [for the examination] Examination of the records of the operations of those officers and the results thereof.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act, upon its approval, shall take effect retroactive to all law violators who have not yet attained the age of twenty years by the date this bill is enacted.

(Approved June 8, 1995.)

## ACT 101

H.B. NO. 187

A Bill for an Act Relating to Motor Carriers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 271-27, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read as follows:

“(a) Any person knowingly and wilfully violating any provision of this chapter, or any rule, [regulation,] requirement, or order thereunder, or any term or condition of any certificate or permit for which a penalty is not otherwise herein provided, shall be guilty of a misdemeanor.”

2. By amending subsections (g), (h), (i), and (j) to read:

“(g) Except when required by state law to take immediately before a district judge a person arrested for violation of any provision of this chapter, including any rule [or regulation] adopted [and promulgated] pursuant to this chapter, the commission’s enforcement officer, upon arresting a person for violation of any provision of this chapter, including any rule [or regulation] adopted [and promulgated] pursuant to this chapter shall issue to the alleged violator a summons or citation printed in the form hereinafter described, warning the alleged violator to appear and answer to the charge against the alleged violator at a certain place and at a time within seven days after [such] the arrest.

- (1) The summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of [such] the summons or citation shall be adopted or prescribed by the district courts.

- (2) The original of a summons or citation shall be given to the alleged violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that the district courts may prescribe alternative methods of distribution for the original and any other copy.
- (3) Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.
- (4) Any person who fails to appear at the place and within the time specified in the summons or citation issued to the person by the enforcement officer upon the person's arrest for violation of any provision of this chapter, including any rule [or regulation promulgated] adopted pursuant to this chapter, shall be guilty of a misdemeanor.
- (5) In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for the person's arrest.
- (6) When a complaint is made to any prosecuting officer of the violation of any provision of this chapter, including any rule [or regulation promulgated] adopted thereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official whose name has been submitted to the prosecuting officer and who has been designated by the commission to administer the same.

(h) Any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of this chapter, or any rule, [regulation,] requirement or order thereunder, may be assessed a civil penalty payable to the State in [the] a sum [of \$100]:

- (1) Up to \$1,000 for each such offense[.]; and[, in]
- (2) In the case of a continuing violation, [not to exceed \$50] not less than \$50 and not to exceed \$500 for each additional day during which [such] failure or refusal [shall continue.] continues.

(i) Notwithstanding subsection (h), a motor carrier who fails to file, within the prescribed time, a financial report with the commission pursuant to its rules [and regulations] may be assessed a civil penalty payable to the State up to the sum of one-sixteenth of one per cent of the gross revenues from the motor carrier's business during the preceding calendar year, if the failure is for not more than one month, with an additional one-sixteenth of one per cent for each additional month or fraction thereof during which the failure continues, but in no event shall the total civil penalty be less than the sum of \$50.

(j) In addition to any other remedy available, the commission or its enforcement officer may issue citations to persons acting in the capacity of or engaging in the business of a motor carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and the rules [promulgated] adopted thereunder.

- (1) The citation may contain an order of abatement, and an assessment of civil penalties as provided in subsection (h). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing, within twenty days

from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.

- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order, issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held or the time granted for requesting the hearing has run without such a request, and a certified copy of the final order of the commission or designated hearings officer.
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the supreme court provided that the operation of an abatement order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection."

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. So in original.

**ACT 102**

H.B. NO. 251

A Bill for an Act Relating to Shoreline Certification.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205A-42, Hawaii Revised Statutes, is amended to read as follows:

**"§205A-42 Determination of the shoreline.** (a) The board of land and natural resources shall adopt rules pursuant to chapter 91 prescribing procedures for determining a shoreline and appeals of shoreline determinations[;] that are consistent with subsection (b); provided that no determination of a shoreline shall be valid for a period longer than twelve months, except where the shoreline is fixed by [manmade]

artificial structures [which] that have been approved by appropriate government agencies and for which engineering drawings exist to locate the interface between the shoreline and the structure.

(b) The chairperson of the board of land and natural resources shall cause a public notice to be published in the periodic bulletin published by the office of environmental quality control. All comments to the application for shoreline certification shall be submitted in writing to the state land surveyor no later than fifteen calendar days from the date of the public notice of the application. Notice of application for certification shall be identified by tax map key number, and where applicable, street address and nearest town."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 103

H.B. NO. 269

A Bill for an Act Relating to Kona Coffee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486-120.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to all other labeling requirements, all roasted or instant coffee which is produced in whole or in part from Kona coffee beans shall meet the following[:] requirements:

(1) Identity statement:

(A) Only roasted or instant coffee which contains one hundred per cent Kona coffee by weight may be labeled or advertised as roasted or instant Kona coffee.

(B) Roasted or instant coffee containing not less than ten per cent but less than one hundred per cent Kona coffee by weight shall be labeled or advertised as “Kona coffee blend,” “Kona blend coffee,” or “blended Kona coffee.” In addition, the following statement shall appear directly below the selected blend wording on the front panel of the label: “contains not less than ten per cent Kona coffee”; however, the actual percentage may be substituted in the statement.

(2) Each word in the identity statement shall be contiguous and conspicuously displayed without any intervening material. Upper and lower case letters may be used interchangeably in the identity statement.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1995.

(Approved June 8, 1995.)

A Bill for an Act Relating to Ocean Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 1988, the legislature found that although many government agencies have responsibilities for different marine and coastal resources and uses, Hawaii needs a more coordinated and consistent marine and coastal zone policy framework. The legislature created a Hawaii ocean resources management program through chapter 228, Hawaii Revised Statutes, to develop a comprehensive and integrated framework for managing the state's marine and coastal uses and resources. This ocean resources management program established the Hawaii ocean and marine resources council and mandated that the council prepare the Hawaii ocean resources management plan. The plan reflects the state's commitment to nurture its marine and coastal zone resources and protect their quality and diversity. The legislature finds that the Hawaii ocean resources management plan as adopted by the seventeenth legislature in 1994 by means of H.C.R. No. 246, S.D.1, strengthens the State's ability to coordinate marine and coastal policy development and resources management responsibilities.

In this regard, the legislature finds that the purposes of the Hawaii ocean resources management plan can best be achieved by integrating the Hawaii ocean resources management plan with state coastal zone management program. The coastal zone management program was created in 1977, as the policy umbrella for land and water use activities in the state, with the mission to balance land and water resource protection and economic development. Therefore, the purpose of this Act is to amend the coastal zone management law, chapter 205A, Hawaii Revised Statutes, to integrate the Hawaii ocean resources management plan with the state coastal zone management program.

SECTION 2. Chapter 205A of the Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . MARINE AND COASTAL AFFAIRS**

**§205A- Definitions.** As used in this part:

“Exclusive economic zone” or “EEZ” means that area set forth in the Presidential Proclamation 5030 issued on March 10, 1983, whereby the United States proclaimed jurisdiction from the seaward boundary of the State out to two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured.

“Marine” means ocean and ocean-related resources.

“Plan” means the Hawaii ocean resources management plan, created and approved by the Hawaii ocean and marine resources council, as amended by the lead agency.

**§205A- Duties and responsibilities of the lead agency.** The lead agency shall have the following duties and responsibilities:

- (1) Coordinate overall implementation of the plan, giving special consideration to the plan's priority recommendations;
- (2) Review and periodically update the plan;
- (3) Coordinate the development of state agency work plans to implement the ocean resources management plan. The work plans shall be revised on a biennial basis and coordinated with the budget process. State



agencies with responsibilities relating to marine and coastal zone management include but are not limited to:

- (A) The department of agriculture;
  - (B) The department of business, economic development, and tourism;
  - (C) The department of defense;
  - (D) The department of education;
  - (E) The department of health;
  - (F) The department of land and natural resources;
  - (G) The department of public safety;
  - (H) The department of transportation; and
  - (I) The University of Hawaii;
- (4) Ensure that state agency work plans are closely coordinated with the work plans of relevant federal and county agencies;
  - (5) Analyze, resolve conflicts between, and prioritize, in cooperation with relevant agencies and as part of the work plan development process, the sector-specific recommendations included in the plan;
  - (6) Coordinate exclusive economic zone and other marine-related issues with state and county agencies;
  - (7) Provide technical assistance to the agencies on policy and issue-related matters regarding marine and coastal resources management;
  - (8) Coordinate marine and coastal education activities; and
  - (9) Adopt rules pursuant to chapter 91 to carry out the purposes of this part.

**§205A- Agency duties to coordinate related programs.** All agencies managing marine and coastal resources, shall:

- (1) Actively work toward the goals, objectives, and policies established by this chapter; and
- (2) Coordinate the development of the state or county agency's programs with the plan.

**§205A- Public participation.** The lead agency and the advisory group shall involve citizens and interested groups and organizations in the updating and implementation of the plan."

SECTION 3. Chapter 205A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§205A- Advisory group; establishment; composition.** (a) There is established within the lead agency a marine and coastal zone management advisory group.

(b) The advisory group shall be composed of twenty members. Advisory group membership shall include:

- (1) The directors of the departments of planning in the counties of Hawaii, Kauai, and Maui and the director of the department of land utilization in the city and county of Honolulu;
- (2) The attorney general, the chairperson of the board of agriculture, the director of business, economic development, and tourism, the adjutant general, the director of health, the chairperson of the board of land and natural resources, the director of public safety, the director of transportation, and the dean of the school of ocean and earth sciences and technology of the University of Hawaii;
- (3) The executive director of the Kahoolawe island reserve commission; and

- (4) Six non-government members, who shall be appointed by the governor for staggered terms of not more than two years. These members shall be selected with consideration given to the following criteria:
  - (A) Statewide geographic distribution; and
  - (B) Balanced representation from among commercial, environmental, native Hawaiian, recreational, and research interests.

Prior to the appointment of the non-governmental members, the lead agency shall undertake widespread solicitation of applications from persons who are interested in serving on the advisory group.
- (c) The director of the lead agency shall serve as the chair of the advisory group and shall serve in a voting capacity.
- (d) A coordinating committee may be established to assist the advisory group.
- (e) Advisory group and coordinating committee members shall serve without compensation.
- (f) The advisory group shall advise the lead agency regarding marine and coastal zone management planning, coordination, and facilitation of functions of the program. The non-government members of the advisory group shall prepare and submit to the legislature, prior to each regular session, a summary of the recommendations appearing in the minutes of the meetings of the advisory group during the prior calendar year and actions resulting from those recommendations. The advisory group shall work toward the establishment and implementation of an integrated and comprehensive management system for marine and coastal zone resources, consistent with the objectives and policies established in this chapter."

SECTION 4. Section 205A-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Advisory group” means the marine and coastal zone management advisory group established in section 205A-\_\_\_\_\_.”

SECTION 5. Section 205A-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

- “(b) Objectives.
  - (1) Recreational resources;
    - (A) Provide coastal recreational opportunities accessible to the public.
  - (2) Historic resources;
    - (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - (3) Scenic and open space resources;
    - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
  - (4) Coastal ecosystems;
    - (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
  - (5) Economic uses;
    - (A) Provide public or private facilities and improvements important to the State’s economy in suitable locations.
  - (6) Coastal hazards;

- (A) Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence, and pollution.
- (7) Managing development;
  - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- (8) Public participation;
  - (A) Stimulate public awareness, education, and participation in coastal management.
- (9) Beach protection;
  - (A) Protect beaches for public use and recreation.
- (10) Marine resources;
  - (A) Implement the State's ocean resources management plan.
- (c) Policies.
  - (1) Recreational resources;
    - (A) Improve coordination and funding of coastal recreational planning and management; and
    - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
      - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
      - (ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
      - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
      - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
      - (v) Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
      - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
      - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
      - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of section 46-6.
  - (2) Historic resources;
    - (A) Identify and analyze significant archaeological resources;
    - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
    - (C) Support state goals for protection, restoration, interpretation, and display of historic resources.

- (3) Scenic and open space resources;
  - (A) Identify valued scenic resources in the coastal zone management area;
  - (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
  - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
  - (D) Encourage those developments which are not coastal dependent to locate in inland areas.
- (4) Coastal ecosystems;
  - (A) Improve the technical basis for natural resource management;
  - (B) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
  - (C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.
- (5) Economic uses;
  - (A) Concentrate coastal dependent development in appropriate areas;
  - (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
    - (i) Use of presently designated locations is not feasible;
    - (ii) Adverse environmental effects are minimized; and
    - (iii) The development is important to the State's economy.
- (6) Coastal hazards;
  - (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
  - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
  - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program;
  - (D) Prevent coastal flooding from inland projects; and
  - (E) Develop a coastal point and nonpoint source pollution control program.
- (7) Managing development;
  - (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;

- (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
- (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle and in terms understandable to the public to facilitate public participation in the planning and review process.
- (8) Public participation;
  - (A) Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;
  - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal-related issues, developments, and government activities; and
  - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.
- (9) Beach protection;
  - (A) Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;
  - (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
  - (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.
- (10) Marine resources;
  - (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
  - (B) Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
  - (C) Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;
  - (D) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
  - (E) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
  - (F) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.”

SECTION 6. Section 205A-3, Hawaii Revised Statutes, is amended to read as follows:

“§205A-3 Lead agency. The lead agency shall:

- (1) Receive, disburse, use, expend, and account for all funds that are made available by the United States and the State for the coastal zone management program;
- (2) Provide support and assistance in the administration of the coastal zone management program;
- (3) Review federal programs, permits, licenses, and development proposals for consistency with the coastal zone management program;
- (4) Consult with the counties and the public in preparing guidelines to further specify and clarify the objectives and policies of the chapter to be submitted twenty days prior to the convening of any regular session of the legislature for review, modification, or enactment by the legislature;
- (5) Conduct a continuing review of the administration of the coastal zone management program and of the compliance of state and county agencies with the objectives and policies of this chapter;
- (6) Facilitate public participation in the coastal zone management program;
- (7) Prepare and periodically update a plan for use of coastal zone management funds to resolve coastal problems and issues that are not adequately addressed by existing laws and rules;
- (8) Advocate agency compliance with chapter 205A;
- (9) Monitor the coastal zone management-related enforcement activities of the state and county agencies responsible for the administration of the objectives and policies of this chapter; [and]
- (10) Prepare an annual report to the governor and the legislature which shall include recommendations for enactment of any legislation necessary to require any agency to comply with the objectives and policies of this chapter and any guidelines enacted by the legislature[.]; and
- (11) Coordinate the implementation of the ocean resources management plan.<sup>1,2</sup>

SECTION 7. Chapter 228, Hawaii Revised Statutes, is repealed.

SECTION 8. It is the intent of this Act not to jeopardize the receipt of any federal aid nor impair the obligation of the State or any agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the State or by any such agency. To the extent, and only to the extent, necessary to implement this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 9. All acts passed during this regular session of 1995, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless the acts specifically provide that this Act is being amended.

SECTION 10.<sup>2</sup> This Act shall take effect on July 1, 1995.

(Approved June 8, 1995.)

Notes

1. Should be a period.
2. No Ramseyer clause.

## ACT 105

H.B. NO. 759

A Bill for an Act Relating to Motor Carrier Law Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a need for better and more efficient enforcement of the motor carrier law. The use of department of transportation personnel for this purpose avoids creating more bureaucracy and is the most cost-effective method because it makes use of personnel already in place. Because these personnel are already stopping motor vehicles for other purposes at way stations, it would be a simple task to further check for current certificates, permits, and identification numbers issued by the public utilities commission, or otherwise issue citations on the spot.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "enforcement officer" to read as follows:

““Enforcement officer” means any person employed and authorized by the commission to investigate any matter on behalf of the commission. The term also means a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to enforce sections 271-8, 271-12, 271-13, and 271-29 through assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 3. Chapter 271, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§271- Enforcement.** At the request of the public utilities commission the department of transportation shall assign a motor vehicle safety officer employed by the department of transportation to assist in the enforcement of sections 271-8, 271-12, 271-13, and 271-29 through the assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 4. Section 271-4, Hawaii Revised Statutes, is amended by amending the definition of "enforcement officer" to read as follows:

“(15) “Enforcement officer” means any person employed and authorized by the commission to investigate any matter on behalf of the commission. The term also means a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to enforce sections 271-8, 271-12, 271-13, and 271-29 through the assessment of civil penalties as provided in section 271-27(h), (i), and (j).”

SECTION 5. Section 271-27, Hawaii Revised Statutes, is amended by:

1. Amending subsection (g) to read as follows:

“(g) Except when required by state law to take immediately before a district judge a person arrested for violation of [any provision of] this chapter, including any rule [or regulation] adopted [and promulgated] pursuant to this chapter, [the commission’s] any enforcement officer, other than a motor vehicle safety officer employed and assigned, pursuant to section 271- , by the department of transportation to assess civil penalties, upon arresting a person for violation of [any provision

of] this chapter, including any rule [or regulation] adopted [and promulgated] pursuant to this chapter shall issue to the alleged violator a summons or citation printed in the form hereinafter described, warning the alleged violator to appear and answer to the charge against the alleged violator at a certain place [and at a time] within seven days after [such] the arrest.

- (1) The summons or citation shall be printed in a form comparable to [the form] that of other summonses and citations used for arresting offenders and shall [be designed to provide for inclusion of] include all necessary information. The form and content [of such summons or citation] shall be adopted or prescribed by the district courts.
- (2) The original of a summons or citation shall be given to the alleged violator and [the other copy or] any other copies distributed in the manner prescribed by the district courts; provided that the district courts may prescribe alternative methods of distribution for the original and any other [copy.] copies.
- (3) Summonses and citations shall be consecutively numbered and [the carbon copy or] any other copies of each shall bear the same number.
- (4) Any person who fails to appear at the place and within the time specified in the summons or citation [issued to the person by the enforcement officer upon the person's arrest for violation of any provision of this chapter, including any rule or regulation promulgated pursuant to this chapter,] shall be guilty of a misdemeanor.
- (5) [In the event] If any person fails to comply with a summons or citation [issued to such person,] or [if any person] fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against [such] the person and secure the issuance of a warrant for the person's arrest.
- (6) When a complaint is made to any prosecuting officer of [the] a violation of [any provision of] this chapter[, including] or any rule [or regulation promulgated thereunder], the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official whose name has been submitted to the prosecuting officer and who has been designated by the commission to administer the same."

2. Amending subsection (j) to read as follows:

"(j) In addition to any other remedy available, the commission or its enforcement officer, including a motor vehicle safety officer employed and assigned, pursuant to section 271-, by the department of transportation may issue citations to persons acting in the capacity of or engaging in the business of a motor carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and [the] rules [promulgated] adopted thereunder.

- (1) The citation may contain an order of abatement[,] and an assessment of civil penalties as provided in subsection (h). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.
- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing[, within twenty days from the receipt of the citation, with respect to the violations alleged,



the scope of the order of abatement and the amount of civil penalties assessed. If the person cited under this subsection [timely] notifies the commission of the request for a hearing[, in time, the commission shall afford the person an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.

- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing [within twenty days from the receipt of the citation,] in time, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order[, issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the [provisions of] final order [of the commission or designated hearings officer], the commission need only produce a certified copy of the final order and show that the notice was given, and a hearing was held or the time granted for requesting the hearing has run without such a request[, and a certified copy of the final order of the commission or designated hearings officer].
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the supreme court; provided that the operation of an abatement order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided [in any other applicable statutory provision.] by law. The commission may adopt any rules under chapter 91 [as] that may be necessary to fully effectuate this subsection.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval and shall be repealed one year from its effective date. Sections 269-1, 271-4, and 271-27, Hawaii Revised Statutes are reenacted in the form in which they read on the day before the approval of this Act.

(Approved June 8, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 106**

H.B. NO. 813

A Bill for an Act Relating to Parentage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 584-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A man is presumed to be the natural father of a child if:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
  - (A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
  - (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
  - (A) He has acknowledged his paternity of the child in writing filed with the department of health;
  - (B) With his consent, he is named as the child's father on the child's birth certificate; or
  - (C) He is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; [or]
- (5) Pursuant to section 584-11, he submits to court ordered genetic testing and the results, as stated in a report prepared by the testing laboratory, do not exclude the possibility of his paternity of the child; provided the testing used has a power of exclusion greater than 99.0 percent and a minimum combined paternity index of five hundred to one; or
- [(5)] (6) He files with the department of health:
  - (A) A voluntary, written acknowledgment of paternity of the child, signed by him under oath; and
  - (B) A voluntary, written acknowledgment of paternity of the child, signed by the natural mother under oath.

The department of health shall prepare a new certificate of birth for the child in accordance with section 338-21. The voluntary acknowledgment of paternity by the presumed father filed with the department of health pursuant to this paragraph shall be the basis for establishing and enforcing a support obligation through a judicial proceeding. This subsection shall not preclude the presumed father from subsequently filing a motion objecting to the voluntary acknowledgment of paternity. The motion shall state the factual basis for placing the issue of paternity before the court.

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 107

H.B. NO. 814

A Bill for an Act Relating to Parentage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 584-15, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and an incompetent adult child, whether or not the petition is made before or after the child has attained the age of majority.”

SECTION 2. Section 580-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon granting a divorce, or thereafter if, in addition to the powers granted in subsections (c) and (d), jurisdiction of [such] those matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make [such] any further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney’s fees, costs, and expenses incurred by each party by reason of the divorce. In making [such] these further orders, the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. In establishing the amounts of child support, the court shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and for the support, maintenance, and education of an incompetent adult child whether or not the [application] petition is made before or after the child has attained the age of majority. In those cases where child support payments are to continue due to the adult child’s pursuance of education, the agency, three months prior to the adult child’s nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to the child’s nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college, or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court upon the child reaching the age of nineteen years. In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent’s income and income assignment orders.

In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance;
- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made; and
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure appropriate employment."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 108

H.B. NO. 994

A Bill for an Act Relating to Disclosures in Real Estate Transactions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 508D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§508D- Rescission.** Notwithstanding anything to the contrary in this chapter, any action for rescission brought under this chapter shall commence prior to the recorded sale of the real property."

SECTION 2. Section 508D-13, Hawaii Revised Statutes, is amended to read as follows:

“**[[[§508D-13]] Subsequent material facts.** Information in a statement that becomes inaccurate as a result of an act or agreement after the statement is provided to the buyer does not violate this chapter. However, the seller is required to provide an amended statement to the buyer within ten calendar days after the discovery of the inaccuracy[.] if the seller discovers the inaccuracy prior to the recorded sale of the real property.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 8, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 109**

H.B. NO. 1208

A Bill for an Act Relating to Deposits of Public Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

“**§36-21 Short-term investment of state moneys.** The director of finance may invest any moneys of the State which in the director’s judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in the director’s judgment the action will not impede or hamper the necessary financial operations of the State in any bonds or interest-bearing notes or obligations of the State (including state director of finance’s warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds, or Federal Home Loan Bank notes and bonds or Federal Home Loan Mortgage Corporation bonds, or Federal National Mortgage Association notes and bonds, or in securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof, or in repurchase agreements fully collateralized by any such bonds or securities, or in federally insured savings accounts, or in time certificates of deposit, or in certificates of deposit open account, or in repurchase agreements with federally insured banks, savings and loan associations and financial services loan companies; provided that the investments are due to mature not more than five years from the date of investment. Income derived therefrom shall be a realization of the general fund.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 110

H.B. NO. 1923

A Bill for an Act Relating to Benefit Societies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 432, Hawaii Revised Statutes, is amended by adding to article 1 a new section to be appropriately designated and to read as follows:

**“§432:1- Annual audit.** (a) Annually on or before June 1, or such later date as the commissioner upon request or for cause may specify, each domestic mutual benefit society shall file an audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and the results of operations of the mutual benefit society. The audited financial statement may use either generally accepted accounting principles (GAAP) or statutory accounting principles (SAP). If the GAAP method is used, a reconciliation of the financial statement to the SAP must be provided to the commissioner. The mutual benefit society, on an annual basis and prior to the commencement of the audit, shall notify the commissioner in writing of the name and address of the person or firm retained to conduct the annual audit. The commissioner may disapprove the mutual benefit society's designation within fifteen days of receipt of the mutual benefit society's notice, and the mutual benefit society shall be required to designate another independent certified public accountant or accounting firm.

(b) The commissioner may suspend or revoke the certificate of compliance of any mutual benefit society that fails to file any of the documents required in subsection (a). In lieu of or in addition to suspension or revocation of the certificate of compliance of any mutual benefit society, the commissioner may impose on the mutual benefit society a penalty in the amount of not less than \$100 and not more than \$500 for each day of delinquency.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 111

H.B. NO. 2008

A Bill for an Act Relating to Aquatic Life.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 187A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§187A- Aquaculturist license and license to sell prohibited aquatic life.** (a) Notwithstanding the provisions in subtitle 5 of title 12, or administrative rules adopted thereunder, the department may issue to any qualified aquaculturist a license to fish, possess, rear, and sell any aquatic life whose fishing, possession or sale is prohibited by closed season, minimum size, or bag limit; provided that the qualified aquaculturist rears or reared the aquatic life in an aquaculture facility.

(b) The department may further issue to any person a license to possess or sell or offer for sale any aquatic life whose possession or sale is prohibited by a closed season, minimum size, or bag limit; provided that the aquatic life was reared by a licensed qualified aquaculturist in an aquaculture facility pursuant to subsection (a).

(c) The department may adopt rules pursuant to chapter 91, to implement this section by establishing the licenses, fees, and terms or conditions necessary for the fishing, possession, or sale of aquatic life whose fishing, possession, or sale is prohibited by closed season, minimum size, or bag limit.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 112**

H.B. NO. 2025

A Bill for an Act Relating to Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 151, Session Laws of Hawaii 1991, is amended by amending section 7, as amended by Act 61, Session Laws of Hawaii 1993, to read as follows:<sup>1</sup>

“SECTION 7. This Act shall take effect upon its approval; provided that no new construction or development shall be initiated at the Kailua sites, for correctional or any other purpose, after July 1, [1995] 1998 without prior legislative approval.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 30, 1995.

(Approved June 8, 1995.)

**Note**

1. So in original.

**ACT 113**

H.B. NO. 2050

A Bill for an Act Relating to the Disposal of Impounded Vessels.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 266-27, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Any unauthorized vessel impounded under this section, which remains unclaimed by the person entitled to possession, the registered owner, or a lien holder

## ACT 114

for more than thirty days, may be sold by the department at public auction. Where no bid is received, the vessel may be sold by negotiation, disposed of as junk, or donated to any governmental agency.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 114

H.B. NO. 2051

A Bill for an Act Relating to Highway Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-236, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall be issued a commercial driver’s license unless that person meets the qualification standards of 49 Code of Federal Regulations, Part 391, Subparts B and E, has passed a knowledge and driving skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 Code of Federal Regulations, Part 383, Subparts G and H, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 (Title XII, Public Law 99-570) in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed by the director and administered by the respective county examiner of drivers. A person who is not physically qualified to drive under 49 Code of Federal Regulations §391.41(b)(1) or (2) and who is otherwise qualified to drive a motor vehicle may be granted an intrastate waiver by the director. The process for granting intrastate waivers shall be the same as that for interstate waivers in 49 Code of Federal Regulations, Part 391.49, except that the intrastate waiver requests shall be submitted to the director.”

SECTION 2. Section 286-236, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The commercial driver’s instruction permit shall not be valid for a period in excess of six months. [Only one renewal or reissuance may be granted within a two-year period.] When driving a commercial motor vehicle, the holder of a commercial driver’s instruction permit shall be accompanied by a person licensed to operate that category of commercial motor vehicle. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.”

SECTION 3. Section 286-239, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) An initial commercial driver’s license shall be valid for not less than a two- or four-year period, beginning on the driver’s birthday. Renewal licenses shall be valid for not more than a two- or four-year period from the expiration date of the previous valid license. The commercial driver’s license shall expire on the next



birthday of the licensee occurring four years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that unless sooner revoked the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee[:

- (1) Is is sixty-five years of age or older[; or
- (2) Is twenty-one through twenty-four years of age].”

SECTION 4. Section 286-240, Hawaii Revised Statutes, is amended to read as follows:

“**[[§286-240[]] Disqualification and cancellation.** (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

- (1) Driving a commercial motor vehicle under the influence of alcohol, a controlled substance, or any drug which impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 per cent or more by weight;
- (3) Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle;
- (4) Using a commercial motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the commercial motor vehicle driven by the person; or
- (6) Unlawful transportation, possession, or use of a controlled substance while on-duty time.

(b) A person is disqualified for a period of not less than three years for any conviction of a violation of any offense listed in subsection (a) that is committed while a hazardous material required to be placarded is being transported.

(c) A person is disqualified from driving a commercial motor vehicle for life if convicted two or more times for [any] violations of [this section.] any of the offenses listed in subsection (a). Only offenses committed after April 1, 1991, may be considered in applying this subsection.

(d) A person is disqualified from driving a commercial motor vehicle for life if the person uses a commercial motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(f) A person is disqualified from driving a commercial motor vehicle or from resubmitting an application for a period of not less than sixty days, if the examiner of drivers finds that a commercial driver's license holder or applicant for a commercial driver's license has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver's license.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than ninety days and not more than one year for a first violation, or for at least one year and not more than five years for a second violation, or at least three years and not more than five years for a third or subsequent violation of an out-of-service order committed in a commercial motor vehicle arising from separate incidents occurring within a ten-year period.

(h) A person is disqualified from driving a commercial motor vehicle for a period of not less than one hundred eighty days or more than two years for a first violation, or for at least three years and not more than five years for any subsequent

violation, of an out-of-service order committed in a commercial motor vehicle transporting hazardous materials or designed to transport sixteen or more occupants, arising from separate incidents occurring within a ten-year period."

SECTION 5. Section 286-241, Hawaii Revised Statutes, is amended to read as follows:

**"[[§286-241]] Notification of suspension, revocation, or cancellation of commercial driver's licenses or permits.** [(a)] After suspending, revoking, or canceling a commercial driver's license or permit, the records of the examiner of drivers shall be updated to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's license or permit, the examiner of drivers shall notify the licensing authority of the state which issued the commercial driver's license within ten days.

[(b) After suspending, revoking, or canceling a resident commercial driver's license or permit, the examiner of drivers shall notify the driver's current employer within ten days.]"

SECTION 6. Section 286-241.4, Hawaii Revised Statutes, is amended to read as follows:

**"[[§286-241.4]] Authority of<sup>1</sup> examiner of drivers to suspend, revoke, or cancel commercial driver's license or permit.** The examiner of drivers may suspend, revoke, or cancel any commercial driver's license or permit without a hearing when the examiner of drivers has probable cause to believe that the licensee is disqualified under section 286-240[.](c) through (h). Upon suspension, revocation, or cancellation of the commercial driver's license or permit, the driver's license or permit shall be surrendered to the examiner of drivers by the licensee or permittee."

SECTION 7. Section 286-242, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person who drives a commercial motor vehicle while having an alcohol concentration of 0.01 per cent [through 0.03 per cent] or more by weight or who refuses to take a test as provided by section 286-243 shall be issued [an] a twenty-four-hour out-of-service order. The driver shall also be placed out-of-service for twenty-four hours if the results of a blood test are not immediately available."

SECTION 8. Section 286-245, Hawaii Revised Statutes, is amended to read as follows:

**"§286-245 Driving record information to be furnished.** Notwithstanding any other provision of law to the contrary, the state judiciary or the city and county of Honolulu shall furnish full information regarding the driving record of any person:

- (1) To the driver's license administrator of any other state, Mexico, or province or territory of Canada, requesting that information; and
- (2) To the person's employer or prospective employer."

SECTION 9. Section 286-249, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§286-249]]~~ **Penalty.** (a) Any person who drives a commercial motor vehicle in the State without a valid commercial driver’s license or permit, or while the person’s driving privileges are suspended, revoked, or canceled, or while disqualified from driving a commercial motor vehicle, [or in violation of any out-of-service order] shall be:

- (1) Disqualified from driving a commercial motor vehicle for a period of not less than one year and up to life;
- (2) Fined not less than \$500 but not more than \$1,000; and
- (3) Imprisoned not more than one year;

provided that the court shall have discretion to impose either a fine or imprisonment, or both.

(b) A driver who is convicted of violating an out-of-service order shall be fined not less than \$1,000 nor more than \$2,500 in addition to the driving disqualification of subsection (a)(1).’’

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. Prior to amendment “the” appeared here.

**ACT 115**

H.B. NO. 2352

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-34, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Length:

- (1) No single motor vehicle or other power vehicle having a total overall length greater than forty-five feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided;
- (2) No truck-tractor and semitrailer having a total overall length greater than sixty feet, including load, shall be operated or moved upon any public road, street, or highway, other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided; provided that for truck-tractors and semitrailers used for agricultural purposes, public utilities maintenance and service vehicles, or articulated buses for public transit purposes, the total combined length of the truck-tractor and semitrailer, public utility maintenance and service vehicle, or articulated bus shall not exceed sixty-five feet in length; provided further that the length of the semitrailer shall not exceed forty-five feet in length;
- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no such combination of vehicles having a total overall length greater than sixty-five feet,

including load, shall be operated or moved upon any public road, street, or highway other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided. A truck-tractor and semitrailer shall be regarded as a single unit when determining the number of units in a combination;

- (4) No motor vehicle, self-propelled construction or farm equipment, trailer, or semitrailer shall be operated upon any public road, street, or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:
  - (A) With respect to self-propelled construction or farm equipment:
    - (i) The length of the equipment measured on a horizontal axis, including the projection, is not greater than forty-five feet;
    - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
    - (iii) The projection does not obstruct the driver's vision;
    - (iv) The projection does not impair the driver's ability to control the equipment;
    - (v) The projection beyond the front tires is at least seven feet above the roadway surface; and
    - (vi) The projection does not extend more than four feet past the extremity of the piece of equipment, or if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection; or
  - (B) With respect to a motor vehicle, or a motor vehicle with attached trailer or semitrailer:
    - (i) The overall length of a motor vehicle including the projection, is not greater than forty-five feet or the overall length of the motor vehicle with attached trailer or semitrailer, including the projection, is not greater than sixty feet except that this limitation on a motor vehicle with attached trailer or semitrailer, including the projection, shall not be applicable on interstate highways and certain qualifying federal aid highways, as designated by the director of transportation;
    - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
    - (iii) The projection does not obstruct the driver's vision;
    - (iv) The projection does not impair the driver's ability to control the equipment;
    - (v) The projection beyond the front tires is at least seven feet above the roadway surface; and
    - (vi) The projection does not extend more than four feet past the extremity of the trailer or semitrailer, or, if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection;
- (5) The foregoing limitations upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel, or other objects of a structural nature which cannot be readily dismembered; provided that when transported by night every such vehicle shall be equipped with a sufficient number of clearance lamps upon the

extreme ends of any projecting load to clearly mark the dimensions of the load.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. Comma should be underscored.

**ACT 116**

S.B. NO. 722

A Bill for an Act Relating to Abuse of Family and Household Members.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 182, Session of Laws Hawaii 1994, is amended by amending its section 3 to read as follows:

“SECTION 3. This Act shall take effect upon its approval [and shall be repealed on June 30, 1995].”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect on June 29, 1995.

(Approved June 8, 1995.)

**ACT 117**

S.B. NO. 869

A Bill for an Act Relating to a Section of the Hawaii Revised Statutes Amended by Act 164, Session Laws of Hawaii 1991.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 209, Session Laws of Hawaii 1988, section 5, as amended by Act 164, Session Laws of Hawaii 1991, section 1, is amended to read as follows:

“SECTION 5. This Act shall take effect on July 1, 1988; provided that on June 30, [1995,] 1997, section 2 shall be repealed, and section 346-64, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 29, 1995.

(Approved June 8, 1995.)

A Bill for an Act Relating to a Section of the Hawaii Revised Statutes Amended by Act 8, Special Session Laws of Hawaii 1993.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to resolve uncertainties in the law relating to a certain statutory provision subject to automatic repeal by operation of law.

Effective July 1, 1992, section 42D-1, Hawaii Revised Statutes (HRS), was amended by Act 194, Session Laws of Hawaii 1992 (Act 194), section 3. Section 20 of Act 194 provided that section 42D-1 be repealed on July 1, 1996, and reenacted in the form in which it read on June 11, 1992, the day before the approval of that Act.

Section 42D-1, however, was further amended by Act 8, Special Session Laws of Hawaii 1993, section 54, which amended the definition of "purchase of service" in section 42D-1 to replace the obsolete reference to chapter 103 with the new reference to chapter 103D (The Hawaii public procurement code).

Because the "drop dead" date contained in Act 194 states that section 42D-1 is to be repealed on July 1, 1996, and reenacted in the form in which it read on June 11, 1992, the 1993 amendment to section 42D-1 will also drop dead on July 1, 1996.

However, the legislature intended that the technical change made by the 1993 amendment, which replaced an obsolete cross-reference, be made permanent.

Therefore, the purpose of this Act is to ensure that on July 1, 1996, section 42D-1 will appear in the form in which it read on June 11, 1992, but will retain the reference to chapter 103D that was added in 1993.

SECTION 2. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section 61 to read as follows:

"SECTION 61. This Act shall take effect on July 1, 1994; provided that [sections]:

- (1) Sections 51 and 52 of this Act and sections -110, -201, -202, -204, and -211 of the chapter established in section 2 of this Act shall take effect upon approval[.]; and
- (2) The amendment to section 42D-1, Hawaii Revised Statutes, made by section 54 of this Act, which substituted the reference to chapter 103, Hawaii Revised Statutes, with reference to chapter 103D, Hawaii Revised Statutes, in the definition of "purchase of service", shall continue in effect after the repeal and reenactment of section 42D-1 as provided in section 20 of Act 194, Session Laws of Hawaii 1992."

SECTION 3. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1995, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

ACT 119

S.B. NO. 944

A Bill for an Act Relating to Money Laundering.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. (a) The legislature makes the following findings:

- (1) Criminal activity and the networks that are characterized as criminal industries divert millions of dollars nationwide from the legitimate commerce each year through the provision of illicit goods and services, force, fraud, and corruption;
- (2) Individuals and groups conducting criminal activity pose an additional threat to the integrity of legitimate commerce by obtaining control of legitimate enterprises through criminal means, by force or fraud, and by manipulating those enterprises for criminal purposes;
- (3) Money and power generated by criminal activity are being used to obtain control of legitimate enterprises, to invest in legitimate commerce, and to control the resources of legitimate enterprises to facilitate ongoing criminal activity;
- (4) Criminal activity and proceeds of criminal activity subvert the basic goals of a free democracy by undermining the monetary medium of exchange and by subverting the judicial and law enforcement processes that are necessary for the preservation of social justice and equal opportunity;
- (5) Criminal activity impedes free competition, weakens the economy, harms in-state and out-of-state investors, diverts taxable funds, threatens the domestic security, endangers the health, safety, and welfare of the public, and debases the quality of life of the citizens of this State;
- (6) Criminal activity becomes entrenched and powerful when the social sanctions employed to combat it are unnecessarily limited in their vision of the goals that may be achieved, in their legal tools, or in their procedural approach;
- (7) Societal strategies and techniques that emphasize bringing criminal remedies to bear on individual offenders for the commission of specific offenses are inadequate to reach the economic incentive supporting the criminal network, are expensive to implement, and are costly in terms of the loss of personal freedom of low-level participants in criminal networks; and
- (8) Comprehensive strategies are required to complement the criminal enforcement strategies by focusing on the financial components and motivations of criminal networks, enlisting the assistance of private victims, empowering courts with financially oriented tools, and developing new substantive, procedural, and evidentiary laws creating effective financial remedies for criminal activity.

(b) The purposes of this Act are to:

- (1) Defend legitimate commerce from and provide economic disincentives for criminal activity;
- (2) Remedy the economic effects of criminal activity; and
- (3) Lessen the economic and political power of criminal networks nationwide;

by providing to the people and to the victims of criminal activity new preventive measures, through criminal sanctions and civil remedies.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
MONEY LAUNDERING**

§ -1 **Title.** This chapter shall be known and may be cited as the “Money Laundering Act”.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Proceeds” means property of any kind acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission.

“Property” means anything of value, including any interest, benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.

“Specified unlawful activity” means any act, or series of acts, that:

- (1) Constitutes a felony under the laws of this State;
- (2) If occurring outside this State, may be punishable by confinement for more than one year under the laws of the state in which the act occurred;
- (3) Involves an act or acts constituting the offenses of gambling, criminal property damage, extortion, theft, prostitution, a drug offense under chapters 329, 329C, or part IV of chapter 712, or any firearm offense; or
- (4) If occurring outside this State, would constitute the offenses of gambling, criminal property damage, extortion, theft, prostitution, a drug offense under chapters 329, 329C, or part IV of chapter 712, or any firearm offense under the laws of this State.

“Transaction” includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, sale, or exchange of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

“Unlawful activity” means any act that is chargeable or indictable as an offense of any degree or class under the laws of this State or under federal law or, if the act occurred in a state other than this State, would be chargeable or indictable as an offense of any degree or class under the laws of this State or under federal law.

§ -3 **Money laundering; criminal penalty.** (a) It is unlawful for any person:

- (1) Who knows that the property involved is the proceeds of some form of unlawful activity, to knowingly transport, transmit, transfer, receive, or acquire the property or to conduct a transaction involving the property, when, in fact, the property is the proceeds of specified unlawful activity:
  - (A) With the intent to promote the carrying on of specified unlawful activity; or
  - (B) Knowing that the transportation, transmission, transfer, receipt, or acquisition of the property or the transaction or transactions is designed in whole or in part to:
    - (i) Conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or



- (ii) Avoid a transaction reporting requirement under state or federal law;
  - (2) Who knows that the property involved in the transaction is the proceeds of some form of unlawful activity, to knowingly engage in the business of conducting, directing, planning, organizing, initiating, financing, managing, supervising, or facilitating transactions involving the property that, in fact, is the proceeds of specified unlawful activity:
    - (A) With the intent to promote the carrying on of specified unlawful activity; or
    - (B) Knowing that the business is designed in whole or in part to:
      - (i) Conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
      - (ii) Avoid a transaction reporting requirement under state or federal law; or
  - (3) To knowingly conduct or attempt to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, with the intent to:
    - (A) Promote the carrying on of specified unlawful activity; or
    - (B) Conceal or disguise the nature, the location, the source, the ownership, or the control of property believed to be the proceeds of specified unlawful activity.
- (b) For the purpose of the offense described in subsection (a)(3), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subsection (a)(3) as true, and the defendant's subsequent statements or actions indicate that the defendant believed the representations to be true.
- (c) For the purposes of subsection (a)(3), the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a state or county official authorized to investigate or prosecute violations of this section.
- (d) This section shall not apply to any person who commits any act described in this section unless:
- (1) The person believes the value or aggregate value of the property transported, transmitted, transferred, received, or acquired is \$10,000 or more; or
  - (2) The value or the aggregate value of the property transported, transmitted, transferred, received, or acquired is \$10,000 or more.
- (e) A person who violates subsection (a) is guilty of a class B felony and may be fined not more than \$25,000 or twice the value of the property involved, whichever is greater, or both."

SECTION 3. Chapter 708, part XI, Hawaii Revised Statutes, is repealed.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

A Bill for an Act Relating to Bulk Sales.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-43, Hawaii Revised Statutes, is amended to read as follows:

**“§237-43 Bulk sales; transfers; penalties.** (a) [Report.] In any case of the sale or transfer in bulk of the whole, or a large part of a stock of merchandise and fixtures, or merchandise, or fixtures, or other assets or property of a business, otherwise than in the ordinary course of trade, [and in the regular and usual prosecution of the seller’s] business, commerce, or sales, the seller shall make a written and verified report of the bulk sale or transfer to the department [of taxation] not later than ten days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser. The report shall contain the name and address of the purchaser, a brief description of the property sold and the purchase price, the date when the sale or transfer is to be or was consummated, and such other facts as the department may require. The purchaser may make the report for the seller.

(b) [Tax clearance.] The purchaser of the property shall withhold payment of the purchase price until the receipt of a certificate from the department to the effect that all taxes, penalties, and interest levied or accrued under [this chapter] title 14 for taxes administered by the department against the seller, or constituting a lien upon the property, have been paid[, which]. A certificate shall not be issued while the department investigates (including by audit) whether taxes have been levied or accrued against the seller. The certificate shall show on its face that the department has had notice of the bulk sale[, ] or transfer, and shall also show the names of the seller and purchaser, a brief description of the property sold[, ] or transferred, and the date of consummation of the sale[, ] or transfer, together with such other information as the department shall prescribe.

(c) [Purchaser’s liability.] If the required report of the bulk sale or transfer is not made, or if the taxes, penalties, and interest shall not be paid within twenty days after the [possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser,] sale or transfer, or within such further time as the department may allow, the purchaser shall be personally liable to pay to the State the amount of all taxes, penalties, and interest levied or accrued under [this chapter] title 14 for taxes administered by the department against the seller or constituting a lien upon the property, together with penalties and interest thereafter accruing, not exceeding, however, the amount of the purchase price[, but the]. The issuance of a certificate in the prescribed form shall be a complete defense to [such liability of the purchaser. In any case of such liability upon the part of the purchaser, a written report thereof shall be made by the purchaser upon the next due date for the payment of gross income taxes.] the bulk sale or transfer liability imposed in the preceding sentence, but shall not be a defense to any liability of the purchaser under any other provision of law for liabilities and obligations. Any purchaser succeeding to the liabilities of the seller under this section shall make a written report thereof upon the next due date for the reporting of gross income taxes.

(d) [Purchase price defined.] For [the] purposes of this section [the “purchase price” shall include money, or the value of any consideration other than money.]:

“Property” means anything that may be the subject of ownership, including every kind of asset, whether real or personal, tangible or intangible, and without

limitation, such as land and buildings, goodwill, notes, accounts, and other intangible property. The term "property" shall not include any interest in residential real property.

"Purchaser" means any person who receives property in a bulk sale or transfer, whether or not money or property is exchanged therefor.

"Purchase price" means the total fair market value, as of the date of sale or transfer, of all property transferred, whether or not money or property is exchanged therefor.

"Sale" means the transfer of property for compensation.

"Seller" means any person who sells or transfers any property in a bulk sale or transfer, whether or not money or property is exchanged therefor.

"Transfer" means the sale, conveyance, or distribution by any mode, direct or indirect, absolute or conditional, voluntary or involuntary, of title to or beneficial ownership in property, or interest therein.

(e) [Penalties.] Failure to make [any] the report required by this section shall [constitute a misdemeanor] be punishable by a fine of not more than \$100. [In addition, penalties and interest shall apply to such delinquent taxes if not paid within twenty days after the [possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser,] sale or transfer, or within such further time as the department may allow, whether or not an assessment of the tax has been made or notice of the delinquency given.]<sup>1</sup> Any seller who wilfully fails to make the report required by this section shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(f) [Purchaser's remedy.] The purchaser shall have the purchaser's remedy against the seller for the amount of taxes, penalties, or interest paid by the purchaser.

(g) This section supplements and does not displace any remedies available to the department under the Uniform Fraudulent Transfer Act and the principles of law and equity."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall apply to bulk sales or transfers occurring after June 30, 1995.

(Approved June 8, 1995.)

**Note**

1. So in original.

**ACT 121**

S.B. NO. 1577

A Bill for an Act Relating to the Payment of Taxes by Electronic Funds Transfer.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§231- Payment of taxes by electronic funds transfer.** (a) The director of taxation is authorized to require every person whose tax liability for any one taxable year exceeds \$100,000 and who files a tax return for any tax, including

## ACT 122

consolidated filers, to remit taxes by one of the means of electronic funds transfer approved by the department.

(b) Any person who files a tax return for any tax and is not required by subsection (a) to remit taxes by means of electronic funds transfer may elect to remit taxes by one of the means of electronic funds transfer approved by the department with the approval of the director of taxation."

SECTION 2. Section 231-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Electronic funds transfer” means any transfer of funds that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account but shall not include any transfer originated by check, draft, or similar paper instrument.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 122

S.B. NO. 1593

A Bill for an Act Relating to Controlled Substances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Aminorex;
- (2) Cathinone;
- [(2)] (3) Fenethylamine;
- [(3)] (4) Methcathinone;
- [(4)] (5) N-ethylamphetamine;
- [(5)] (6) 4-methylaminorex;
- [(6)] (7) N,N-dimethylamphetamine.”

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;

- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage form);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Glutethimide;
- (11) Levo-alphaacetylmethadol (LAAM);
- [(11)] (12) Isomethadone;
- [(12)] (13) Levomethorphan;
- [(13)] (14) Levorphanol;
- [(14)] (15) Metazocine;
- [(15)] (16) Methadone;
- [(16)] (17) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- [(17)] (18) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- [(18)] (19) Pethidine;
- [(19)] (20) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- [(20)] (21) Pethidine-Intermediate-B, ethyl-4 phenylpiperidine-4-carboxylate;
- [(21)] (22) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- [(22)] (23) Phenazocine;
- [(23)] (24) Piminodine;
- [(24)] (25) Racemethorphan;
- [(25)] (26) Racemorphan;
- [(26)] (27) Sufentanil."

SECTION 3. Section 329-18, Hawaii Revised Statutes, is amended to read as follows:

**"§329-18 Schedule III.** (a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substance listed in Schedule II, and any other drug of the quantitative composition or which is the same except that it contains a lesser quantity of controlled substances;
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Mazindol;
- (6) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;
- (4) Chlorexadol;
- (5) Lysergic acid;
- (6) Lysergic acid amide;
- (7) Methypylon;
- (8) Sulfondiethylmethane;
- (9) Sulfonethylmethane;
- (10) Sulfonmethane;
- (11) Tiletamine/Zolazepam (Telazol).
- (d) Nalorphine.
- (e) Any material, compound, mixture, or preparation containing limited quantities or any of the following narcotic drugs, or any salts thereof:
  - (1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
  - (2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
  - (4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
  - (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
  - (8) Not more than 50 milligrams of morphine or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (f) The department of public safety may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(g) Any anabolic steroid. The term “anabolic steroid” means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Clostebol (4-Chlorotestosterone);
- (3) Dehydrochlormethyltestosterone;
- (4) Dihydrotestosterone (4-dihydrotestosterone);<sup>1</sup>
- [(4)] (5) Drostanolone;
- [(5)] (6) Ethylestrenol;
- [(6)] (7) Fluoxymesterone;
- [(7)] (8) Formebolone (Formyldienolone);
- [(8)] (9) Mesterolone;
- [(10)] (10) Methandranone;<sup>1</sup>
- [(9)] (11) Methandriol;
- [(10)] (12) Methandrostenolone (Methandienone);
- [(11)] (13) Methenolone;
- [(12)] (14) Methyltestosterone;
- [(13)] (15) Mibolerone;
- [(14)] (16) Nandrolone;
- [(15)] (17) Norethandrolone;
- [(16)] (18) Oxandrolone;
- [(17)] (19) Oxymesterone;
- [(18)] (20) Oxymetholone;
- [(19)] (21) Stanolone (Dihydrotestosterone)
- [(20)] (22) Stanozolol;
- [(21)] (23) Testolactone;
- [(22)] (24) Testosterone;
- [(23)] (25) Trenbolone; and
- [(24)] (26) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth[.], except the term “anabolic steroid” does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for nonhuman administration. If any person prescribes, dispenses, or distributes an anabolic steroid intended for administration to nonhuman species for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

[(h) Penalties applied to anabolic steroids as a Schedule III drug are not applicable to anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the United States Food and Drug Administration for such use.]”

SECTION 4. Section 329-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;

- (4) Butorphanol;
- [ (4) ] (5) Camazepam;
- [ (5) ] (6) Carisoprodol;
- [ (6) ] (7) Chloral betaine;
- [ (7) ] (8) Chloral hydrate;
- [ (8) ] (9) Chlordiazepoxide;
- [ (9) ] (10) Clobazam;
- [ (10) ] (11) Clonazepam;
- [ (11) ] (12) Clorazepate;
- [ (12) ] (13) Clotiazepam;
- [ (13) ] (14) Cloxazolam;
- [ (14) ] (15) Delorazepam;
- [ (15) ] (16) Diazepam;
- [ (16) ] (17) Estazolam;
- [ (17) ] (18) Ethchlorvynol;
- [ (18) ] (19) Ethinamate;
- [ (19) ] (20) Ethyl loflazepate;
- [ (20) ] (21) Fludiazepam;
- [ (21) ] (22) Flunitrazepam;
- [ (22) ] (23) Flurazepam;
- [ (23) ] (24) Halazepam;
- [ (24) ] (25) Haloxazolam;
- [ (25) ] (26) Ketazolam;
- [ (26) ] (27) Loprazolam;
- [ (27) ] (28) Lorazepam;
- [ (28) ] (29) Lormetazepam;
- [ (29) ] (30) Mebutamate;
- [ (30) ] (31) Medazepam;
- [ (31) ] (32) Meprobamate;
- [ (32) ] (33) Methohexital
- [ (33) ] (34) Methylphenobarbital (mephobarbital);
- [ (34) ] (35) Midazolam;
- [ (35) ] (36) Nimetazepam;
- [ (36) ] (37) Nitrazepam;
- [ (37) ] (38) Nordiazepam;
- [ (38) ] (39) Oxazepam;
- [ (39) ] (40) Oxazolam;
- [ (40) ] (41) Paraldehyde;
- [ (41) ] (42) Petrichloral;
- [ (42) ] (43) Phenobarbital;
- [ (43) ] (44) Pinazepam;
- [ (44) ] (45) Prazepam;
- [ (45) ] (46) Quazepam;
- [ (46) ] (47) Temazepam;
- [ (47) ] (48) Tetrazepam;
- [ (48) ] (49) Triazolam;
- (50) Zolpidem."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1995.)



Note

1. Should be underscored.

ACT 123

S.B. NO. 1743

A Bill for an Act Relating to an Exemption for Physical Therapist Support Personnel.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461J-3, Hawaii Revised Statutes, is amended to read as follows:

**“§461J-3 Exemptions.** (a) Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be a physical therapist or that the person is performing physical therapy or physical therapy services.

(b) Nothing in this chapter shall be construed to prohibit students in an educational program for physical therapists or physical therapist support personnel from participating in activities that are conducted as part of the educational program and are under the guidance and direct supervision of a licensed physical therapist.

(c) A person licensed to practice physical therapy by any other state or by a foreign country may practice physical therapy in this State if the person is part of an educational demonstration or instructional program or seminar sponsored by an educational institution, hospital, medical care program, the Hawaii Chapter of the American Physical Therapy Association, or any other similar person or group, for the duration of the program or seminar and confined to the purpose of the program or seminar.

(d) Nothing in this chapter shall be construed to prohibit a certified athletic trainer as recognized by the National Athletic Trainers Association from performing within the scope of such certification; nor shall it be construed to prohibit any person employed as an athletic trainer in any public or private educational institution from administering hot packs, whirlpool, and cold packs, protective taping, and basic first aid intervention, or from acting under the direct supervision of a certified athletic trainer or team physician; provided that the services are performed on regularly enrolled students, that the students are engaged in or are eligible to engage in institutionally sponsored athletic events, and that in no case shall the person claim to be a physical therapist or claim to be performing physical therapy.

(e) Nothing in this chapter shall be construed to prohibit a duly licensed physical therapist from using support or auxiliary personnel to assist the physical therapist in the practice of physical therapy; provided that such support or auxiliary personnel shall perform only those duties that they are qualified to perform as allowed by the rules defining scope of practice adopted by the board; and provided further that such support or auxiliary personnel shall perform these duties under the supervision and direction of a physical therapist.”

SECTION 2. Section 461J-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other actions authorized by law, any license issued under this chapter may be revoked or suspended[,] by the board at any time for any cause authorized by law, including but not limited to the following:

- (1) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (2) Wilfully betraying patient confidentiality;
- (3) Making an untruthful and improbable statement in advertising one's practice [of] or business;
- (4) False, fraudulent, or deceptive advertising;
- (5) Being habituated to the excessive use of drugs or alcohol or being or having been addicted to, dependent on, or a habitual user of, a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (6) Practicing physical therapy while the ability to practice is impaired by alcohol, drugs, or mental instability;
- (7) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to [perform activities requiring a license;] practice physical therapy;
- (8) Professional misconduct, gross carelessness, or manifest incapacity in the practice of physical therapy;
- (9) Conduct or practice contrary to the ethics of the profession of physical [therapists] therapy in the United States;
- (10) Violation of the conditions or limitations upon which a temporary license is issued or an exemption is granted; or
- (11) Violation of this chapter or the rules adopted pursuant thereto."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 124

S.B. NO. 1746

A Bill for an Act Relating to a Requirement to Obtain an Acupuncture Intern Permit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 436E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§436E- Acupuncture intern permit required.** (a) Except as otherwise provided by law, no person shall practice as an acupuncture intern in this State either gratuitously or for pay, without having first obtained a permit from the board. This permit shall entitle the applicant to engage in the practice of acupuncture for a period of four years under the immediate supervision of a licensed acupuncturist duly licensed under this chapter.

(b) An acupuncture intern permit may be reissued once, for a period not to exceed one year, upon written request to the board and payment of the required fee.

(c) The board shall adopt rules pursuant to chapter 91 defining the functions of an acupuncture intern, establishing the requirements to be met by an applicant for an acupuncture intern permit, and specifying the procedures for the immediate supervision of the acupuncture intern by a licensed acupuncturist."

SECTION 2. Section 436E-3, Hawaii Revised Statutes, is amended to read as follows:

“[[[§436E-3]]] License required. Except as otherwise provided by law, no person shall practice acupuncture in this State either gratuitously or for pay, or shall offer to so practice, or shall announce themselves either publicly or privately as prepared or qualified to so practice any method of acupuncture without having a valid unrevoked license or intern permit from the State[.]; provided that the requirement for a permit shall not be enforced until the board has initially adopted rules pursuant to section 436E-.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 125**

S.B. NO. 1771

A Bill for an Act Relating to Payment of Child Support Through Income Withholding.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The order for automatic assignment shall operate as an assignment by the obligor to the child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of income and who has been served with a certified copy of the assignment order. The copy of the order may be certified by the court or the office of child support hearings as a true copy of the order. The assignment shall be terminated when appropriate by the court or the clerk of the court or the child support enforcement agency; provided that payment of all overdue support shall not be the sole basis for terminating the assignment. In the event that the obligee retains private counsel or proceeds pro se, the obligee shall have primary responsibility for terminating the assignment. If the obligee fails to terminate the assignment when appropriate, the obligee shall reimburse the obligor to the extent of any overpayment. If the assignment is not terminated when appropriate, the obligor may seek reimbursement for any overpayment from the obligee or from the child support enforcement agency, to the extent the overpayment was disbursed to the department of human services. The child support enforcement agency shall establish procedures by rule in accordance with chapter 91 for the prompt reimbursement for any overpayment to the obligor.”

SECTION 2. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional

amount of \$2 from the income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order [unless otherwise ordered by the court] and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this section, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court or the child support enforcement agency of its duty under this subsection to order the assignment.”

SECTION 3. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(l) [The] If there is more than one obligee, the amounts withheld from the income of an obligor [may] shall be allocated among [more than one obligee.] the obligees. The allocation may be based on each obligee’s proportionate share of the amount of the withholding orders that were served on the employer of the obligor. In no case shall the allocation result in a withholding for one of the support obligations not being implemented.”

SECTION 4. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Compliance by an employer with the income withholding order shall operate as a discharge of the employer’s liability to the responsible parent for that portion of the responsible parent’s earnings withheld and transmitted to the agency, whether or not the employer has withheld the correct amount. For each payment made pursuant to an income withholding order, the employer may deduct and retain as an administrative fee an additional amount of \$2 from the income owed to the responsible parent. Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, [unless otherwise ordered,] and shall not be subject to the exemptions or restrictions contained in part III of chapter 651 and in chapters 652 and 653. An employer who fails to comply with an income withholding order under this section shall be liable to the obligee or the agency for the full amount of all sums ordered to be withheld and transmitted. An employer receiving an income withholding order shall transmit amounts withheld to the agency within five working days after the responsible parent is paid. The employer shall begin withholding no later than the first pay period commencing within fourteen days following the date a copy is mailed to the employer. An employer who is required to withhold amounts from the income of more than one employee may remit to the agency a sum total of all such amounts in one check with a listing of the amounts applicable to each employee.

Within five working days after receipt of the amounts withheld by the employer, the agency shall disburse the amounts to the obligee for the benefit of the child.”

SECTION 5. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) [The] If there is more than one obligee, the amounts withheld from the income of a responsible parent [may] shall be allocated among [more than one obligee.] the obligees. The allocation may be based on each obligee’s proportionate

share of the amount of the withholding orders that were served on the employer of the obligor. If concurrent assignment orders would cause the amounts withheld from the responsible parent's income to exceed applicable wage withholding limitations, the [current support obligation of the first served order shall be satisfied first, and then current obligations of subsequently served orders shall be satisfied in the order of service.] amount withheld shall be allocated so that in no case shall the allocation result in a withholding for one of the support obligations not being implemented. Thereafter, arrearages due under the income withholding orders shall be satisfied in the order of service, up to the applicable limitation."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 8, 1995.)

## ACT 126

S.B. NO. 1806

A Bill for an Act Relating to the State Government Functions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-6, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

- “(b) The department shall [preaudit];
- (1) Preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts; [report]
  - (2) Report to the governor and to each regular session of the legislature as to the finances of each department of the [State; administer] state;
  - (3) Administer the state risk management program; [establish]
  - (4) Establish and manage motor pools; [manage]
  - (5) Manage the preservation and disposal of all records of the [State; undertake] state;
  - (6) Undertake the program of centralized engineering and office leasing services, including operation and maintenance of public buildings, for departments of the [State; undertake] state;
  - (7) Undertake the functions of the state surveyor; [and establish, analyze, and enforce];
  - (8) Establish accounting and internal control systems[.];
  - (9) Provide centralized computer information management and processing services, coordination in the use of all information processing equipment, software, facilities, and services in the executive branch of the state, and consultation and support services in the use of information processing and management technologies to improve the efficiency, effectiveness, and productivity of state government programs; and
  - (10) Establish, coordinate, and manage a program to provide a means for public access to public information and develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government.

The state communication system shall be established to:

- (1) Facilitate implementation of the state's distributed information processing and information resource management plans;
- (2) Improve data, voice, and video communications in state government;
- (3) Provide a means for connectivity among the state, university, and county computer systems; and
- (4) Provide a long-term means for public access to public information.

(c) The department may adopt rules as may be necessary or desirable for the operation and maintenance of public buildings[.], and for the operation and implementation of a program to provide a means for public access to the state's information network system and public information. The rules shall be adopted pursuant to chapter 91."

SECTION 2. Section 26-8, Hawaii Revised Statutes, is amended to read as follows:

**"§26-8 Department of budget and finance.** (a) The department of budget and finance shall be headed by a single executive to be known as the director of finance.

(b) The department shall [undertake]:

- (1) Undertake the preparation and execution of the executive budget of the state government; [conduct]
- (2) Conduct a systematic and continuous review of the finances, organization, and methods of each department of the State to assist each department in achieving the most effective expenditure of all public funds and to determine that such expenditures are in accordance with the budget laws and controls in force; [have]
- (3) Have custody of state funds and be responsible for the safekeeping, management, investment, and disbursement thereof; and [administer]
- (4) Administer state debts.

[The department of budget and finance shall develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government. The state communication system shall be established to facilitate implementation of the State's distributed information processing and information resource management plans; improve data, voice, and video communications in state government; provide a means for connectivity among the state, university, and county computer systems; and provide a long-term means for public access to public information.]

(c) The functions and authority heretofore exercised by the bureau of the budget (except for insurance management, surplus property management, and central purchasing transferred to the department of accounting and general services) and the funds custody, cash management, debt management, and administering of veterans loan functions of the treasurer as heretofore constituted are transferred to the department of budget and finance established by this chapter.

(d) The employees retirement system as constituted by chapter 88 is placed within the department of budget and finance for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of finance, and the composition of the board of trustees of the employees retirement system shall be as heretofore provided by law.

The public utilities commission is placed within the department of budget and finance for administrative purposes only.

The housing finance and development corporation is placed within the department of budget and finance for administrative purposes only.

The rental housing trust fund established under chapter 201F, is placed within the department of budget and finance for administrative purposes only."

SECTION 3. All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

All appropriate records, appropriations, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of budget and finance or the department of accounting and general services relating to functions being transferred shall be transferred with the functions to which they relate; provided that such transfers shall occur no later than June 30, 1996.

SECTION 4. All rules, directives, policies, procedures, guidelines, and other materials adopted or developed by or for the department of budget and finance or the department of accounting and general services to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the department to which the functions are transferred by this Act, shall remain in full force and effect until amended or repealed pursuant to chapter 91, Hawaii Revised Statutes, as applicable. In the interim, every reference to the department or director in those rules, directives, policies, procedures, guidelines, and other material is amended to refer to the department or director to which the functions are transferred by this Act.

SECTION 5. All Acts passed during this regular session of 1995, whether enacted before or after the passage of this Act, shall be amended to conform to this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1995; except that the transfer shall not commence until two years after the effective date of this Act.

(Approved June 8, 1995.)

**Note**

1. Prior to amendment “, including activities conducted in or around the public buildings” appeared here.

**ACT 127**

S.B. NO. 1022

A Bill for an Act Relating to Special Purpose Revenue Bonds and the Issuance Thereof to Assist Not-for-Profit Corporations that Provide Health Care Facilities to the General Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 39A-52, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-52 Sunset provision.** After June 30, [1995,] 2000, no new special purpose revenue bonds shall be issued under this part.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1995.

(Approved June 8, 1995.)

## ACT 128

H.B. NO. 26

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the current law regarding shipping motor vehicles interisland should be amended to provide more flexibility for vehicle owners and shippers. The current law requires an owner of a motor vehicle to present a current certificate of ownership and current no-fault insurance card to the shipper. In many instances, that certificate is not in the possession of the owner, but is held by a financial institution until payments on the loan are completed. The legislature further finds that allowing a legal owner to present a current certificate of registration, picture identification, and current no-fault insurance card and allowing a non-legal owner to present a current certificate of registration and notarized written consent of the legal owner, current certificate of registration, and no-fault insurance card in addition to other documents, will give both shippers and owners increased flexibility in transporting cars interisland.

SECTION 2. Section 286-271, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Except as provided in subsection (b), [an] a legal owner of a vehicle shall not ship that vehicle interisland in this State unless the legal owner first presents to the shipper the legal owner’s current certificate of [ownership] registration showing that the person is the registered owner of the vehicle, picture identification, and a current no-fault identification card for the vehicle], provided that presentation of a no-fault identification card shall not be required for:]. If the registered owner of the vehicle is not the legal owner of the vehicle, the registered owner must present to the shipper, the registered owner’s current certificate of registration, the notarized written consent of the legal owner thereof to the transportation, and a no-fault identification card. Presentation of a no-fault identification card shall not be required for:

- (1) Unlicensed propelled vehicles that are not intended for on-road use;
- (2) Vehicles that have been repossessed by a regulated financial institution or vehicles that have been voluntarily surrendered to a regulated financial institution or its designated agent; or
- (3) New unregistered vehicles shipped with a bill of lading.

(b) [An] A legal owner of a damaged vehicle shall not ship that vehicle interisland in this State for repair, disposal, or salvage unless the legal owner first presents to the shipper the legal owner’s current certificate of [ownership,] registration showing that the person is the registered owner of the vehicle and a picture identification, or a dealer’s license, or a notarized bill of sale, as applicable, which evidences the vehicle’s identification number or serial number. A registered owner of the vehicle who is not the legal owner of the vehicle must present a current certificate of registration and a notarized written consent of the legal owner thereof



to the transportation or a dealer's license, or a notarized bill of sale, as applicable, which evidences the vehicle's identification number or serial number."

SECTION 3. Statutory material to be deleted is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 129

H.B. NO. 530

A Bill for an Act Relating to Insurance Certificates of Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 3 to be appropriately designated and to read as follows:

**“§431:3- Foreign insurer; accreditation.** Notwithstanding section 431:3-203 or any other law to the contrary in this code, the insurance commissioner shall grant a certificate of authority to any applicant, regardless of the number of previous years experience in the business of insurance, that is an insurer licensed under the insurance laws of one of not less than three states annually designated by the insurance commissioner from among the states which are accredited by the National Association of Insurance Commissioners. The loss of accreditation by a state designated by the commissioner shall not in itself affect the validity of a previously issued certificate of authority by the commissioner to a foreign insurer licensed under the insurance laws of the previously accredited state. Nor shall the commissioner's de-selection of a state affect the validity of a previously issued certificate of authority to a foreign insurer licensed by that state. Each year, after having designated, or redesignated, the accredited states whose insurers shall be authorized to transact insurance in this State, the commissioner shall cause to be published in a newspaper of general circulation in this State, and in those of the designated states, the fact that those states have been so designated. Nothing in this section shall limit the commissioner's authority to require a foreign insurer to proceed with the accreditation process under this article if the commissioner, at the commissioner's discretion, determines that it would be in the public interest.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 1995.

(Approved June 9, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

ACT 130

H.B. NO. 806

A Bill for an Act Relating to Tort Reform.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 31 of Act 2, First Special Session Laws of Hawaii 1986, as amended by section 2 of Act 300, Session Laws of Hawaii 1989, as amended by section 1 of Act 62, Session Laws of Hawaii 1991, as amended by section 1 of Act 238, Session Laws of Hawaii 1993, is amended to read as follows:

“SECTION 31. This Act shall take effect upon its approval[, and Sections 2, 4, 5, 6, 7, 17, and 20 shall be repealed on October 1, 1995].”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

ACT 131

H.B. NO. 837

A Bill for an Act Relating to the University of Hawaii Community Colleges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 305-5, Hawaii Revised Statutes, is amended to read as follows:

“**[[[§305-5]] Community college conference center revolving fund. (a)** There is established a revolving fund for conference center programs conducted by the various community colleges. All fees, charges, and other moneys collected in conjunction with the conference center programs of each community college shall be deposited in separate accounts within the revolving fund. The provost of each college or a designee is authorized to expend [moneys] funds from the appropriate account in the revolving fund for [any cost related to the] all costs associated with conducting [of] conferences, seminars, [or] and courses [sponsored by their campuses. Allowable expenditures from the revolving fund shall include] by the conference center programs, including but not be limited to, expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, leis, rental of audio-visual equipment, and [other supplies and equipment that may be necessary for conference or seminar purposes.] conference supplies and materials, without regard to section 103-42 and any competitive bidding requirements pursuant to state procurement requirements.

(b) The provosts of the community colleges shall prepare an annual report to the legislature accounting for all income and expenditures of each separate account within the revolving fund.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 132

H.B. NO. 1311

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to subpart B of part III to be appropriately designated and to read as follows:

**“§201E- Starter homes; design standards; applicant eligibility; authority to incorporate starter homes into housing projects of the corporation.**

(a) The corporation shall adopt rules in accordance with chapter 91 to establish design and construction standards for starter homes configured to expand incrementally over time. For the purposes of this section, “starter home” means a dwelling unit that is designed to meet the basic living capacity requirements of homebuyers with families of limited size by eliminating needless design and space amenities, but which nonetheless enables future expansion, modification, and improvement by the owner to accommodate increased occupancy over time as may be necessary. The rules shall include building, set-back, minimum lot size, infrastructure, and architectural standards for the construction and development of starter homes.

(b) In addition to the requirements of subsection (a), the corporation shall adopt rules in accordance with chapter 91 to establish the basic requirements for families eligible to purchase starter homes under this section. The rules shall include guidelines and restrictions on occupancy standards initially permitted in a starter home, as well as the income ranges of families eligible to qualify for purchases under this section.

(c) The corporation may incorporate starter homes into any affordable housing project developed by the corporation under this chapter. The corporation shall determine on a project by project basis the number of starter home units to be included in each particular project.

(d) The corporation shall include in its annual report to the legislature a report on the number of starter homes constructed and developed by the corporation in accordance with the authorization provided in this section.”

SECTION 2. Section 201E-222, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Real property purchased under this chapter shall be occupied by the purchaser at all times during the ten-year restriction period set forth in section 201E-221[.], except in hardship circumstances where the inability to reside on the property arises out of unforeseeable job or military transfer, a temporary educational sabbatical, serious illness of the person, or in such other hardship circumstances as determined by the corporation on a case by case basis.

The corporation may waive the owner occupancy requirement for a total of not more than ten years after the purchase of the dwelling, during which time the dwelling unit may be rented or leased. Waivers may be granted only to qualified residents who have paid resident state income taxes during all years in which they occupied the dwelling, who continue to pay resident state income taxes during the waiver period, and whose inability to reside on the property does not stem from a natural disaster. The ten-year owner occupancy requirement shall be extended by one month for every month or fraction thereof that the owner occupancy requirement is waived.

## ACT 133

The corporation shall adopt rules under chapter 91 to implement the letter and spirit of this subsection and to prescribe necessary terms and conditions. The rules shall include:

- (1) Application and approval procedures for the waivers;
- (2) Exceptions authorized by this subsection;
- (3) The amounts of rents that may be charged by persons allowed to rent or lease a dwelling unit; and
- (4) Schedules of fees needed to cover administrative expenses and attorneys fees.

No qualified resident who fails to reoccupy a dwelling unit after any waiver period shall receive more than the maximum to which the person would be entitled under section 201E-221. Any person who disagrees with the corporation's determination under this section shall be entitled to a contested case proceeding under chapter 91."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 133

H.B. NO. 1426

A Bill for an Act Relating to the General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

**"§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

    "Employee" means employees directly engaged in the day to day operation of the hotel and employed by the operator.

    "Hotel" means an operation licensed under section 445-92.

    "Operator" means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

    "Owner" means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the day to day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property; [and]

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities[.];
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2[.]; and
- (7) Interest received by a person domiciled outside the State from a trust company (as defined in section 412:8-101) acting as payment agent or

trustee on behalf of the issuer or payees of an interest bearing instrument or obligation, if the interest would not have been subject to tax under this chapter if paid directly to the person domiciled outside the State without the use of a paying agent or trustee; provided that if the interest would otherwise be taxable under this chapter if paid directly to the person domiciled outside the State it shall not be exempt solely because of the use of a Hawaii trust company as a paying agent or trustee."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved June 9, 1995.)

## ACT 134

H.B. NO. 1472

A Bill for an Act Relating to Tax Credits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-55.8, Hawaii Revised Statutes, is amended:

1. By amending the title to read:

**"[Food/excise] Food tax credit."**

2. By amending subsection (a) to read:

"(a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a [food/excise] food tax credit against the resident taxpayer's individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit."

3. By amending subsection (b) to read:

"(b) Each resident individual taxpayer may claim [tax credits in the amount indicated in this subsection:

- (1) A) a<sup>1</sup> tax credit of [\$55] \$27 multiplied by the number of qualified exemptions to which the taxpayer is entitled; provided that no additional tax credit shall be claimed because of age;
- (2) In addition to the amount of the credit allowed under paragraph (1), the taxpayer may claim an additional tax credit for each adjusted gross income bracket as shown in the schedule below multiplied by the number of qualified exemptions to which the taxpayer is entitled;

provided that each taxpayer sixty-five years of age or over may claim double the tax credit:

TAX CREDIT SCHEDULE

| Adjusted Gross Income   | Tax Credit |
|-------------------------|------------|
| Under \$ 6,000          | \$55       |
| \$ 6,000 under \$ 8,000 | 45         |
| 8,000 under 10,000      | 35         |
| 10,000 under 12,000     | 25         |
| 12,000 under 15,000     | 20         |
| 15,000 under 20,000     | 15         |
| 20,000 under 30,000     | 10         |
| Over \$30,000           | 0]         |

; provided further that a husband and wife filing separate tax returns [for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled under paragraph (2) had a joint return been filed and] may each claim [\$55 under paragraph (1).] a \$27 tax credit."

SECTION 2. Section 235-55.9, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.<sup>2</sup> New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved June 9, 1995.)

Notes

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

ACT 135

H.B. NO. 1486

A Bill for an Act Relating to Wildlife.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183D-34, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-34 Private and commercial shooting preserve and farmer’s license.** (a) For the purpose of encouraging private and commercial shooting preserves, game bird farming, and the domestication and propagation of game birds, a license authorizing the licensee to engage in the business of conducting a private and commercial shooting game preserve, or breeding and selling game birds, as limited in this section, shall be issued by the department, pursuant to rules as may be adopted by the department, to any responsible resident person duly applying therefor. The licenses shall expire on June 30 of each year.

(b) Any other law to the contrary notwithstanding, a commercial or private shooting preserve licensee may permit a nonresident hunter to take game birds that are the exclusive property of the private or commercial shooting preserve, pursuant to section 183D-41, on a designated shooting preserve, without a hunting license as

required by section 183D-21; provided that the nonresident hunter has been issued, and is in possession of, a valid hunting license issued by the nonresident hunter's state or Canadian province of residence. The department may adopt rules to administer this subsection. The licensee shall include, in each quarterly report required under section 183D-39, additional information on the number of nonresident hunters exempted from section 183D-21 under this subsection, the number of hunting days per unlicensed nonresident hunter, and the amount of fees collected. The information shall be on a form or in a format as may be prescribed by the department. The department may require the licensee to provide any other information that it deems necessary.

[(b)] (c) The fee for [the license] private and commercial shooting preserve and farmer's licenses shall be [\$1;] set by the department; provided that the department may authorize any governmental agency to breed and sell [such] game birds[,] and may authorize any person to possess lawfully obtained game birds. In addition to any other applicable fees, private and commercial shooting preserve licensees shall remit, with their quarterly report, an amount equal to the current nonresident hunting license fee, as established in section 183D-22(b)(2), per each nonresident hunter exempted from the licensing requirement under subsection (b), to the department for deposit into the wildlife revolving fund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall be repealed on June 30, 2005; provided that section 183D-34, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved June 9, 1995.)

## ACT 136

H.B. NO. 1687

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-24, Hawaii Revised Statutes, is amended to read as follows:

**"§87-24 Selection of a carrier or third-party administrator for a health benefits, group life insurance, or long-term care benefits plan. [Before selecting] Notwithstanding chapter 103D, selection of a carrier or third-party administrator for any benefit plan[, the board of trustees] shall[:] be based on specifications and considerations determined by the board of trustees. In that process, the board of trustees may:**

- (1) Prepare specifications;
- (2) Submit specifications for [sealed] proposals by interested applicants;
- (3) Evaluate proposals; [and]
- (4) Give prime consideration to the applicant offering the lowest net cost and high quality of services[.]; and
- (5) Negotiate or use other competitive procedures, as the board of trustees deems appropriate in its discretion, to select a carrier or a third-party administrator."



SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

**ACT 137**

H.B. NO. 1857

A Bill for an Act Relating to Child Support Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The agency shall:

- (1) Establish a state parent locator service for the purpose of locating absent and custodial parents;
- (2) Cooperate with other states in:
  - (A) Establishing paternity, if necessary;
  - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and
  - (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state;
- (3) Perform periodic checks of whether a parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent’s child support obligations;
- (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, “Aid to Families with Dependent Children family” means a family which receives financial assistance under the federal Aid to Families with Dependent Children program;
- (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section 576D-3. The procedures shall include advance notice to the debtor parent in full compliance with the State’s procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement;
- (6) Establish and utilize procedures by which information regarding the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency. The procedures shall be effectuated [after the delinquency reaches \$1,000, shall be in compliance with the limitations under Title IV-D,] upon the agency being authorized to provide Title IV-D services, and shall include provisions on advance notice to the debtor parent whose information is being reported of the procedures, which shall be in full

- compliance with the State's procedural due process requirements, to contest the accuracy of the information[;]. The agency may require payment of a reasonable fee by any consumer reporting agency that requests information on the account status of a child support obligor, provided that all fees collected shall be deposited to the general fund;
- (7) Establish and utilize procedures which will [impose] enforce liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;
  - (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
  - (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency;
  - (10) Establish and utilize procedures for periodic review and modification of child support orders in accordance with Title IV-D; and
  - (11) Perform other duties required under Title IV-D."

SECTION 2. Section 576D-10.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The [lien] child support order shall be recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court[.] after filing in the office of the clerk of the circuit court. The lien shall become effective immediately upon [its] recordation of the child support order and shall attach to all interests in real property then owned or subsequently acquired by the obligor including any interests not recorded with the bureau of conveyances or filed in the land court."

SECTION 3. Section 576D-11, Hawaii Revised Statutes, is amended to read as follows:

**"§576D-11 Staff.** The [head of the appropriate department] attorney general shall appoint, [pursuant] without regard to chapters 76 and 77, an administrator; an assistant administrator who shall serve as controller and whose duties shall include but not be limited to designing and implementing controls over all financial management systems, including electronic data processing systems, and developing an appropriate staffing plan; and a staff attorney to serve as the supervisor of the administrative process activities and staff. In addition, the attorney general shall appoint, pursuant to chapters 76 and 77, [and such] other personnel as may be required to discharge the functions of the child support enforcement agency. The staff attorney shall not be considered to be a deputy attorney general under chapter 28. The [head of the appropriate department] attorney general shall commission child support enforcement investigators who shall have and may exercise all the powers and authority of a police officer or a deputy sheriff to fulfill their official responsibilities; provided that persons so appointed and commissioned shall not carry firearms. The duties of the commissioned investigators shall be to locate absent parents, to establish paternity, and to obtain and enforce court orders of support. The child support enforcement agency shall have access, including automated inquiry

access, to the records of any agency, board, commission, authority, court, or committee of the State or [its political subdivisions] the counties notwithstanding any provisions for confidentiality, except that the child support enforcement agency shall be subject to the same restrictions on disclosure of the records as the originating agency pursuant to section 92F-19(b).”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 138

H.B. NO. 1988

A Bill for an Act Relating to Homeless.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 358D-3, Hawaii Revised Statutes, is amended by amending the definition of “homeless” to read as follows:

““Homeless” means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; [or] and
- (2) An individual or family who has a primary nighttime residence that is:
  - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
  - (B) An institution that provides temporary residence for individuals intended to be institutionalized; or
  - (C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings[, pursuant to standards and criteria established by rule for eligibility, need, and priority for each program; provided that the authority may establish by rule exceptions to these eligibility requirements based on special circumstances].”

SECTION 2. Section 358D-8, Hawaii Revised Statutes, is amended to read as follows:

**“§358D-8 Program administration.** To the extent that appropriations are made available, the authority may contract with a provider agency to administer homeless facilities, or any other program for the homeless created by this chapter. The selection of provider agencies to [operate and manage state-owned homeless facilities] administer homeless facilities, or any other program for the homeless authorized by this chapter, shall not be subject to chapters 42D, 102, [and] 103[.], and 103D. The selection of provider agencies shall be subject to qualifying standards and criteria established by rule.”

SECTION 3. Section 358D-9, Hawaii Revised Statutes, is amended to read as follows:

**“§358D-9 Time limits.** To the extent that appropriations are made available, a provider agency shall provide shelter or any other program assistance authorized by this chapter to eligible homeless families and homeless individuals not later than two days, or such time as is set by rule which shall not be later than seven days, after they apply and qualify for the shelter or other program assistance[.], pursuant to rule.”

SECTION 4. Section 358D-10, Hawaii Revised Statutes, is amended to read as follows:

**“§358D-10 Determination of eligibility and need.** (a) The provider agency operating and managing a homeless facility, or any other program for the homeless authorized by this chapter, or the authority operating and managing its own homeless facility, shall be responsible for determining if an applicant is eligible for shelter or other services at the homeless facility or through any other program for the homeless, pursuant to standards and criteria established by rule.

(b) The provider agency or the authority operating and managing its own homeless facility shall determine the degree of need for each homeless family or individual and in its determination shall consider the resources available and the number of potential eligible applicants in the area served by the homeless facility or other program for the homeless authorized by this chapter.

(c) The authority may establish by rule standards and criteria for eligibility, need, and priority for each program; provided that the authority may establish by rule exceptions to these eligibility requirements based on special circumstances.”

SECTION 5. Section 358D-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a)** The authority shall ensure that a compliance audit[, paid for by the authority,] by an independent auditing agency is carried out expeditiously [for each fiscal year during which] at least once each fiscal biennium period for any provider agency which dispensed shelter or assistance for any homeless facility or any other program for the homeless authorized by this chapter. The audit shall [address all provider agencies for that type of facility or program and shall] include recommendations to address any problems found. [The auditing agency shall include a representative number of interviews with recipients of the shelter or other form of assistance as part of its compliance audit.]”

SECTION 6. Section 358D-17, Hawaii Revised Statutes, is amended to read as follows:

**“§358D-17 Homeless shelter stipends.** (a) Prior to July 1, 1992, homeless shelter stipends at transitional shelters shall not exceed \$350 per shelter unit housing a homeless family of four members per month. Prior to July 1, 1992, the stipend for emergency shelters shall not exceed \$10 per shelter bed per night. The stipend limits shall be adjusted by the authority on July 1, 1992, and each first day of July thereafter[, until July 1, 1996, based on the change in the consumer price index for Honolulu for the preceding calendar year, rounded off to the nearest dollar. The authority may adopt rules under chapter 91 to establish exceptions to the stipend limits based on special circumstances.

(b) Effective July 1, 1996, homeless shelter stipends at transitional shelters shall not exceed \$400 per month per shelter unit of zero bedrooms. A “shelter unit of zero bedrooms” means a living unit which is a studio unit or a single-room occupancy unit. The homeless shelter stipend at transitional shelters for larger

shelter unit sizes shall be related to the difference in unit size, pursuant to standards established by rule. Effective July 1, 1996, homeless shelter stipends at emergency shelters shall not exceed \$13 per shelter bed per night. The stipend limits shall be adjusted by the authority on July 1, 1997, and each first day of July thereafter pursuant to standards established by rule which may consider changes in the cost of operating homeless facilities, the fair market rents, the consumer price index, or other relevant factors.

[(b)] (c) The authority may make or may contract to make homeless shelter stipend payments on behalf of one or more homeless families or individuals to a provider agency operating or managing an emergency or transitional shelter or, in the case that the authority itself operates and manages a homeless facility, to the authority in such amounts and under such circumstances as provided by rule. The contract may specify a minimum total amount of homeless shelter stipends to be received by a provider agency for making its shelter and services available to eligible homeless families or individuals, pursuant to rule.

[(c)] (d) In making homeless shelter stipend payments to a provider agency the authority may establish minimal services to be provided by the provider agency to homeless families or individuals at the agency's shelter. The authority may also direct provider agencies to establish and manage a savings account program as described in subsection [(d).] (e). Additionally, the authority may direct provider agencies to subcontract for outreach services from other private agencies specializing in programs for the unsheltered homeless.

[(d)] (e) Provider agencies and the authority may establish and collect shelter and services payments from homeless families or individuals in addition to the amount received in homeless shelter stipend payments pursuant to rule. Provider agencies and the authority may also set aside a portion of the payments in a savings account to be made available to homeless families or individuals when these families and individuals vacate the shelter.

[(e) Selection of provider agencies to receive homeless shelter stipends shall not be subject to chapters 42D, 102, or 103; provided that the selection of provider agencies receiving homeless shelter stipends shall be subject to rules adopted under chapter 91, which ensure compliance with Article VII, section 4, of the Constitution of the State of Hawaii.]”

SECTION 7. This Act shall not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 139

S.B. NO. 287

A Bill for an Act Relating to Irrigation Water Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 167, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§167- Irrigation water development special fund.** (a) There is established in the state treasury the irrigation water development special fund, into which shall be deposited:

- (1) Appropriations by the legislature to the irrigation water development special fund;
- (2) All receipts and revenues derived from irrigation projects financed through the issuance of revenue bonds;
- (3) All or any portion of the receipts and revenues collected under this chapter, as determined by the board, whether or not receipts or revenues are derived from irrigation projects financed through the issuance of revenue bonds; and
- (4) Interest earned or accrued on moneys in the irrigation water development special fund.

(b) Moneys in the irrigation water development special fund shall be used by the board for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, and equipment necessary for the development, operation, or maintenance of an irrigation project;
- (2) Payment of debt service on revenue bonds issued by the department for irrigation project purposes, and the establishment of debt service and other revenues deemed necessary by the board;
- (3) Reimbursement of the general fund for debt service on general obligation bonds issued to finance irrigation projects where the bonds are designated to be reimbursable out of the irrigation water development special fund; and
- (4) Any other purpose deemed necessary by the board for the purpose of planning, designing, improving, constructing, developing, operating, and maintaining irrigation projects.”

SECTION 2. Section 167-7, Hawaii Revised Statutes, is amended to read as follows:

**“[[§167-7]] Issuance of revenue bonds.** (a) The board of agriculture shall have the power to issue revenue bonds[, as provided by] in the name of the department in amounts as may be authorized by the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter, to finance in whole or in part, the cost of construction, acquisition, or maintenance of any water facility or irrigation project hereunder, and, in connection therewith, to pledge or assign for the punctual payment of the revenue bonds, and interest thereon, any and all revenues derived from [the] any project or projects [for the construction, acquisition, or maintenance of which the bonds were issued, and the revenue of other or all projects,] undertaken by the board, in an amount sufficient to pay the principal and interest of the revenue bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in making preparation for the [initial] issuance of revenue bonds under this chapter, and to take any other action necessary or proper in connection therewith. [Any project authorized by this chapter shall be designated an “undertaking” within the meaning of part III of chapter 39 and shall be the public undertaking, the revenues of which are hereby charged with the payment of the principal and interest of the bonds.]

(b) All revenue bonds issued pursuant to this chapter shall be issued in the name of the department and not in the name of the State.

(c) The board, with the approval of the governor, may designate by resolution all or any portion of an irrigation project or projects undertaken pursuant to this

chapter; provided that for the purposes of this section, “undertaking” shall have the same meaning as used in part III of chapter 39.”

SECTION 3. Section 167-11, Hawaii Revised Statutes, is amended to read as follows:

**“[[§167-11]] Rate policy; sale of excess water.** The board of agriculture shall have the power to fix and adjust rates and charges for the furnishing of irrigation or domestic water and for water service so that the revenues derived therefrom [may] shall be sufficient to cover the cost of operation, maintenance, [and] replacement, and debt service on revenue bonds in compliance with part III of chapter 39, and may make [such] charges as may be necessary to cover the capital cost of the system or other costs incurred in connection with [such] the system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of the land occupiers and other consumers may from time to time be available.”

SECTION 4. Section 167-19, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [Acreage assessments shall be deemed revenues within the meaning of part III of chapter 39 and shall be used for the payment of the principal and interest of any revenue bonds issued hereunder.] All or any portion of the acreage assessments collected under this chapter, as determined by the board, exclusive of acreage assessments imposed on lands within an irrigation project financed through the issuance of revenue bonds, shall be deposited into the irrigation system revolving fund. Acreage assessments imposed on lands within an irrigation project financed through the issuance of revenue bonds shall be deposited into the irrigation water development special fund.”

SECTION 5. Section 167-22, Hawaii Revised Statutes, is amended to read as follows:

**“[[§167-22]] Irrigation system revolving fund.** (a) There [shall be a special fund to be known as] is established the [“irrigation system revolving fund”.] irrigation system revolving fund, into which shall be deposited:

- (1) All legislative appropriations to the irrigation system revolving fund;  
and
- (2) All or any portion of the receipts and revenues collected under this chapter, as determined by the board of agriculture, exclusive of the receipts and revenues deposited into the irrigation water development special fund.

(b) The irrigation system revolving fund shall be administered by the department of agriculture. Moneys in the revolving fund shall be expended for [administrative]:

- (1) Administrative costs, engineering surveys, economic studies, plans, and maps[.]; and [for other]
- (2) Other water projects or purposes of the board of agriculture.

In the event any moneys are expended [therefrom] from the revolving fund for engineering surveys, economic studies, plans, and other expenses directly attributable to any water project, or for the establishment of any water project, the amount of the expenditures shall be reimbursed to the revolving fund from any funds received by the board for and on account of the project.”

## ACT 140

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 140

S.B. NO. 1200

A Bill for an Act Relating to Thrill Craft.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 200-23, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "commercial high speed boating" to read:

""Commercial high speed boating" means the use of an open [ocean racing] power boat to provide high speed rides to passengers who pay compensation for the rides. "Commercial high speed boating" does not include:

- (1) The use of an open ocean racing boat during an official racing competition; or
- (2) The use of an open ocean racing boat while practicing for racing competition; provided that no passenger pays compensation for riding the boat during the practice."

2. By amending the definition of "thrill craft" to read:

""Thrill craft" means any motorized vessel that falls into the category of personal watercraft, and which:

- (1) Is generally less than thirteen feet in length as manufactured;
- (2) Is generally capable of exceeding a speed of twenty miles per hour; [and]
- (3) Can be operated by a single operator, but may have the capacity to carry passengers while in operation[.]; or
- (4) Is designed to provide similar operating performance as a personal watercraft through a combination of small size, power plant, and hull design.

The term includes, but is not limited to, a jet ski, waverunner, wet bike, surf jet, miniature speed boat, hovercraft, and every description of vessel which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, or being towed behind the vessel."

SECTION 2. Section 200-37, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) No person shall engage in commercial high speed boating or operate an open [ocean racing] power boat capable of exceeding 40 miles per hour for commercial high speed boating purposes in the waters of the State, except:



- (1) In areas, along routes, and during time periods designated by the department; and
- (2) [Through areas designated by the department to serve as avenues for the ingress and egress of open ocean racing boats between the areas designated under paragraph (1) and the shore.] In accordance with a permit issued by the department.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 141

S.B. NO. 1254

A Bill for an Act Relating to Notaries Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 456, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§456- Notary signing for disabled person.** A notary may sign the name of a person physically unable to sign or to make a mark on a document presented for notarization; provided that the notary is satisfied that the person has voluntarily given consent for the notary to sign on the person’s behalf, if the notary writes, in the presence of the person: “Signature affixed by notary pursuant to section 456- , Hawaii Revised Statutes.” beneath the signature, and if a doctor’s written certificate is provided to the notary certifying that the person is unable to physically sign or make a mark because of the disability, and that the person is capable of communicating the person’s intentions.”

SECTION 2. Section 456-15, Hawaii Revised Statutes, is amended to read as follows:

**“§456-15 Record; copies as evidence.** Every notary public shall record at length in a book of records all acts, protests, depositions, and other things, by the notary noted or done in the notary’s official capacity. For each official act, the notary shall enter in the book:

- (1) The type, date, and time of day of the notarial act;
- (2) The title or type and date of the document or proceeding;
- (3) The signature, printed name, and address of each person whose signature is notarized and of each witness;
- (4) Other parties to the instrument; and
- (5) The manner in which the signer was identified.

All copies or certificates granted by the notary shall be under the notary’s hand and notarial seal, and shall be received as evidence of such transactions.”

SECTION 3. Section 456-17, Hawaii Revised Statutes, is amended to read as follows:

**“§456-17 Fees.** Subject to section 456-18, every notary public is entitled to demand and receive the following fees:

For noting the protest of mercantile paper, \$5;

For each notice and certified copy of protest, \$5;

For noting any other protest, \$5;

For every notice thereof, and certified copy of protest, \$5;

For every deposition, or official certificate, \$5;

For the administration of oath, including the certificate of the oath, [\$4;] \$5;  
for affixing the certificate of the oath to every duplicate original instrument beyond four, \$2.50;

For taking any acknowledgment, [\$4] \$5 for each party signing; for affixing to every duplicate original beyond one of any instrument acknowledged before the notary, the notary's certificate of the acknowledgment, \$2.50 for each person making the acknowledgment.”

SECTION 4. Section 502-48, Hawaii Revised Statutes, is amended to read as follows:

**“§502-48 Identification of person making.** No acknowledgment of any conveyance or other instrument, except as provided by this chapter, whereby any real estate is conveyed or may be affected, shall be taken, unless the person offering to make the acknowledgment is personally known to the officer taking the [same] acknowledgment to be the person whose name is subscribed to the conveyance or instrument as a party thereto, or is proved to be such by the oath or affirmation of a credible witness known to the officer[.] or by production of a current identification card or document issued by the United States, this State, any other state, or a national government that contains the bearer's photograph and signature.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 142**

S.B. NO. 1560

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-41, Hawaii Revised Statutes, is amended to read as follows:

**“§281-41 Transfer of licenses; notice of change in officers, directors and stockholders of corporate licenses; penalty.** No license issued under this chapter to an original applicant or to any transferee shall be transferable or be transferred within one year of such issuance or transfer except for good cause shown to the satisfaction of the liquor commission. No license issued under this chapter shall be transferable or be transferred except upon written application to the commission by the proposed transferee, and after prior inspection of the premises, reference to, and

report by an inspector, and a public hearing held by the commission not less than fourteen days after one publication of notice thereof, but without sending notice of the hearing by mail to persons being the owners or lessees of real estate situated within the vicinity of the premises and without the right to such owners or lessees to protest the transfer of a license[;]. Exceptions are class 5 and 11 licensees who must comply with the notice requirements as set forth in section 281-57. [provided that no] No class 5 or 12 license issued to a standard bar as defined in section 281-1, shall be transferable to other than a standard bar, and that such license shall be subject to revocation if the licensed premise is not retained as a standard bar except upon written application to the commission by the licensee and/or the proposed transferee, subject to sections 281-51 to 281-60.

Where a license is held by a partnership, the commission may, notwithstanding this section, transfer the license upon the death or withdrawal of a member of the partnership to any remaining partner or partners without publication of notice and without public hearing.

Where a license is held by a limited partnership, the admission or withdrawal of a limited partner shall not be deemed a transfer of the license held by the partnership, but the licensee shall, prior to such admission or withdrawal, so notify the commission in writing, stating the name of the partner or partners who have withdrawn, if such be the case, and the name, age, and place of residence of the partner or partners who have been admitted, if that be the case. If the commission finds a limited partner to be an unfit or improper person to hold a license in the limited partner's own right pursuant to section 281-45, it may revoke the license or suspend the license of the partnership until the unfit or improper partner is removed or replaced.

Except as otherwise provided in this section, the same procedure shall be followed in regard to the transfer of a license as is prescribed by this chapter for obtaining a license. Sections 281-51 to 281-60, except where inconsistent with any provision hereof, are hereby made applicable to such transfers. The word "applicant", as used in such sections, shall include each such proposed transferee, and the words, "application for a license or for the renewal of a license", as used in such sections, shall include an application for the transfer of a license.

Upon the hearing, the commission shall consider the application and any objections to the granting thereof, and hear the parties in interest. It shall inquire into the propriety of each transfer and determine whether the proposed transferee is a fit person to hold the license. It may approve a transfer or refuse to approve a transfer, and the refusal by the commission to approve a transfer shall be final and conclusive, unless an appeal is taken as provided in chapter 91.

If any licensee without such approval transfers to any other person the licensee's business for which the licensee's license was issued, either openly or under any undisclosed arrangement whereby any person other than the licensee comes into possession or control of the business, or takes in any partner or associate the commission may in its discretion suspend or cancel the license.

If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; provided that in the case of a change in ownership of twenty-five per cent or more of the stock or in the case of change in ownership of any number of shares of the stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock, the corporate licensee shall, prior to the date of such transfer, apply for and secure the approval of the transfer from the commission in writing. If the commission finds that the proposed transferee is an unfit or improper person to hold a license in the proposed transferee's own right pursuant to section 281-45, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the commission, the commission may in its discretion revoke or

suspend the license until it determines that the transferee is a fit and proper person, and if the commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person pursuant to section 281-45. In addition, the corporate licensee shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of such officer or director. If the commission finds the transferee, officer or director an unfit or improper person to hold a license in the transferee's, officer's, or director's own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of such capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper officer or director is removed or replaced by a fit and proper person pursuant to section 281-45.

If a licensee closes out the business for which the license is held, during the term for which the license was issued, the licensee shall, within five days from the date of closing the same, give the commission written notice thereof and surrender the licensee's license for cancellation."

SECTION 2. Section 281-59, Hawaii Revised Statutes, is amended to read as follows:

**"§281-59 Hearing.** Upon the day of hearing, or any adjournment thereof, the liquor commission shall consider the application and any protests and objections to the granting thereof, and hear the parties in interest, and shall within fifteen days thereafter give its decision granting or refusing the application; provided that if a majority of the registered voters for the area within five hundred feet of the nearest point of the premises for which the license is asked or a majority of the owners and lessees of record of real estate and owners of shares in a cooperative apartment within five hundred feet of the nearest point of the premises for which the license is asked have duly filed or caused to be filed their protests against the granting of the license [upon the original application], or if there appears any other disqualification under this chapter, the application shall be refused. Otherwise the commission may in its discretion grant or refuse the same. The commission may also, with like discretion, grant a license to one person in preference to another, without reference to any priority in the order of filing of the applications; and may of its own motion, or on the suggestion of any member, or of the investigator take notice of any matter or thing which in the opinion of a majority of its members would be a sufficient objection to the granting of a license; but in such case if the objection is one to which the applicant should be given a reasonable time to answer, a continuance may be granted in the discretion of the commission; provided that in any case where any person affected by such decision petitions the commission for a rehearing of the application and on oath alleges facts and grounds for consideration which were not formerly presented or considered, or any other matter of fact which in the judgment of the commission seems sufficient to warrant a rehearing, such rehearing may be granted by the commission in its discretion. When a rehearing is allowed notice shall be given to the applicant and to the applicant's opponents, by publication or otherwise as the commission shall direct."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

## ACT 143

S.B. NO. 1670

A Bill for an Act Relating to Radiologic Technology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 466J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§466J- Continuing education requirement for renewal.** (a) After January 1, 1999, licensees shall have taken twenty-four continuing education credits acceptable to the board in the preceding biennium to renew their licenses.

(b) Licensees who have met the continuing education requirements of the American Registry of Radiologic Technologists in the biennium immediately preceding renewal or are in good standing with the American Registry of Radiologic Technologists shall be deemed to have met the continuing education requirement for license renewal.

(c) Licensees shall maintain proof of participation for continuing education credits and shall attest to this participation on the renewal application. This documentation shall be maintained by the licensee for the preceding biennium and shall be provided to the board as requested.

(d) The board shall sample and verify the continuing education documentation of licensees. The percentage of sampling shall be determined by the board.

(e) Failure of licensees to submit documentation for attested continuing education credits acceptable to the board shall be grounds for license suspension or revocation.”

SECTION 2. Section 466J-1, Hawaii Revised Statutes, is amended to read as follows:

**“§466J-1 Definitions.** As used in this chapter:

“Approved school for radiologic technologists”, “approved training program for radiographers”, [and] “approved training program for radiation [therapy] therapists”, and “approved training program for nuclear medicine technologists” mean a school or training program determined [and accredited] by the [department as providing] board to provide a course of instruction in radiologic technology that is adequate to meet the purposes of this chapter.

“Board” means the radiologic technology board.

“Certified” means holding a license issued by the board when used in conjunction with the title “radiographer”, “radiation therapist”, or “nuclear medicine technologist”.

“Department” means the department of health.

“Director” means the director of health.

“Nuclear medicine technologist” means any person who administers radio-pharmaceuticals to human beings and conducts in vivo or in vitro detection and measurement of radioactivity for diagnostic or therapeutic purposes.

“Nuclear medicine technology” means the application of radiopharmaceuticals to human beings and the performance of in vivo or in vitro detection and measurement of radioactivity for diagnostic or therapeutic purposes.

“Radiation [therapy technologist] therapist” means any person who applies [x-rays, cobalt 60, or electrons] ionizing radiation to human beings for therapeutic purposes.

“Radiation therapy technology” means the application of [x-rays, cobalt 60, or electrons] ionizing radiation to human beings for therapeutic purposes.

“Radiographer” means any person who applies x-rays to human beings for diagnostic purposes.

“Radiography” means the application of x-rays to human beings for diagnostic purposes.

“Radiologic technologist” means any person who applies x-rays to human beings for diagnostic purposes, [or x-rays, cobalt 60, or electrons] ionizing radiation to human beings for therapeutic purposes[.], or radiopharmaceuticals for diagnostic or therapeutic purposes.

“Radiologic technology” means the application of x-rays to human beings for diagnostic purposes [or x-rays, cobalt 60, or electrons], ionizing radiation to human beings for therapeutic purposes[.], or radiopharmaceuticals for diagnostic or therapeutic purposes.

“Supervision” means responsibility for, and control of, quality, radiation safety, and technical aspects of all x-ray, [cobalt 60, or electron] radiopharmaceutical, or ionizing radiation examinations and procedures.”

SECTION 3. Section 466J-2, Hawaii Revised Statutes, is amended to read as follows:

**“§466J-2 Radiologic technology board; appointment; duties.** (a) The governor shall appoint and may remove in the manner prescribed in section 26-34 a radiologic technology board, to be placed in the department for administrative purposes.

(b) The board shall consist of [nine] ten members. The membership shall be composed of [two]:

- (1) Two persons licensed to practice medicine pursuant to chapter 453 and certified by the American Board of Radiology; [four]
- (2) Four persons, each with at least five years’ experience and certified in the practice of radiography, two of whom shall be persons engaged in the hospital practice of radiography; [and one]
- (3) One person [who practices] with at least five years’ experience who is certified and engaged in the practice of radiation therapy technology[.];
- (4) One person with at least five years’ experience, who is certified and engaged in the practice of nuclear medicine technology; [and one]
- (5) One person from the general public[.]; and
- (6) The director or the director’s designated representative shall be the [ninth,] tenth, ex officio voting member of the board.

(c) The board shall:

- (1) Select its own chairperson from among its members;
- (2) Adopt, amend, or repeal [such] rules pursuant to chapter 91 as [are] necessary to effectuate the purposes of this chapter;
- (3) Determine minimum standards for and approve [such] educational institutions [which] that provide a course of instruction in radiologic technology [which] that meets the requirements of this chapter;
- (4) Withdraw [approval] or deny approval of educational institutions for failure to meet prescribed standards;
- (5) Examine qualified applicants and grant, deny, suspend, or revoke licenses [which] that are authorized by this chapter and impose such conditions as may be necessary in connection with the granting, denial, suspension, or revocation of licenses;
- (6) Keep a record of all its proceedings; and
- (7) Make an annual report to the governor.

(d) Members of the board shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.”

SECTION 4. Section 466J-4, Hawaii Revised Statutes, is amended to read as follows:

**“§466J-4 Licenses required.** (a) No person shall practice or offer to practice as a radiographer [or], as a radiation [therapy] therapist, or as a nuclear medicine technologist without an appropriate license previously obtained and maintained in good standing in compliance with this chapter and the rules of the board. It shall be unlawful for any person not appropriately licensed under this chapter to practice or offer to practice radiologic technology.

(b) Every person licensed as a radiographer [or], as a radiation [therapy] therapist, or as a nuclear medicine technologist shall be subject to [an annual] a biennial license fee (initial and renewal) [of \$10. The annual period shall commence on July 1 of each year, and the] payable to the department. The failure of any licensee to pay the licensee’s fee shall be grounds for revocation of the licensee’s license. All fees collected by the board pursuant to this section shall be deposited into the environmental health program enhancement and education fund established under section 321-27.

After July 1, 1998, the license period shall be biennial. The biennial period shall begin thirty days after the end of the licensee’s birth month.”

SECTION 5. Section 466J-5, Hawaii Revised Statutes, is amended to read as follows:

**“§466J-5 Radiographers [and], radiation [therapy] therapists, and nuclear medicine technologists; qualifications[,] and licenses[, examination].** (a) An applicant for a license to practice as a radiographer or as a radiation [therapy technologist] therapist shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has satisfactorily completed a course in an approved school for radiologic technology or an approved training program for radiographers or radiation therapy technologists; and
- (2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency.] is registered in good standing with the American Registry of Radiologic Technologists.

(b) An applicant for a license to practice as a nuclear medicine technologist shall submit to the board written evidence, verified by oath or affirmation, that the applicant is:

- (1) Certified in good standing with the Nuclear Medicine Technology Certification Board;
- (2) Registered in good standing with the American Registry of Radiologic Technologists in Nuclear Medicine;
- (3) Registered in good standing with the American Registry of Radiologic Technologists in Radiography with nuclear medicine technology clinical training and experience acceptable to the board; or
- (4) Practicing as a nuclear medicine technologist with nuclear medicine technology clinical training and experience acceptable to the board.

[(b)] (c) The board shall adopt rules pursuant to chapter 91 to further define and regulate the practices authorized for radiographers, [and for] radiation [therapy] therapists, and nuclear medicine technologists.

[(c) The applicant shall be required to pass the appropriate examination specified and administered by the board; provided that the board may accept in lieu of the examination a certificate of another agency or organization that certifies radiographers or radiation therapy technologists, if the certificate was issued on the basis of an examination reasonably equivalent to the examination administered by the board.]

(d) The board shall adopt rules pursuant to chapter 91 to enable licensed radiographers [and], licensed radiation [therapy] therapists, and licensed nuclear medicine technologists from other states having standards that are comparable to those in Hawaii to obtain licensure without the need for examination.

(e) The applicant applying for a license to practice as a radiographer [or], as a radiation [therapy] therapist, or as a nuclear medicine technologist shall pay a nonrefundable application fee [of \$10] to the department[, plus the cost of an examination]. All fees received by the department pursuant to this section shall be deposited into the environmental health program enhancement and education fund established under section 321-27; provided that any other moneys collected pursuant to this chapter shall be deposited with the director of finance to the credit of the general fund, unless otherwise provided by law.

(f) Any person who holds a license to practice as a radiographer shall have the right to use the title "certified radiographer"[, and the abbreviation C.R.]. No other person shall assume this title [or use its abbreviation] or any other words, letters, signs, or devices to indicate that the person is a certified radiographer.

(g) Any person who holds a license to practice as a radiation [therapy] technologist therapist shall have the right to use the title "certified radiation [therapy] technologist", and the abbreviation C.R.T.] therapist". No other person shall assume this title [or use its abbreviation] or any other words, letters, signs, or devices to indicate that the person is a certified radiation [therapy] technologist] therapist.

(h) Any person who holds a license to practice as a nuclear medicine technologist shall have the right to use the title "certified nuclear medicine technologist". No other person shall assume this title or any other words, letters, signs, or devices to indicate that the person is a certified nuclear medicine technologist.

[(h)] (i) The form of every license shall be prescribed by and issued in the name of the board."

SECTION 6. Section 466J-6, Hawaii Revised Statutes, is amended to read as follows:

**"§466J-6 Persons exempted.** (a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for licensed medical practitioners in radiology, nuclear medicine, licensed doctors of dentistry, dental technicians, dental hygienists, and students in an approved school for radiographers [and], radiation [therapy] therapists, or nuclear medicine technologists, and in schools of medicine, podiatry, dentistry, or chiropractic, when the persons are operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation [therapy] therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter.

(b) The board may issue special temporary permits upon request to unlicensed radiographers working in shortage areas. After February 10, 1995, new special temporary permits shall not be issued by the board. After June 30, 1998, special temporary permits issued before February 10, 1995, shall not be renewed."

SECTION 7. Section 466J-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



“(a) An institution desiring to conduct an education program to prepare certified radiographers [or], certified radiation [therapy] therapists, or certified nuclear medicine technologists shall apply to the board and submit evidence that it is prepared to meet such standards as shall be established by law and by the board.”

SECTION 8. Section 466J-9, Hawaii Revised Statutes, is amended to read as follows:

“**§466J-9 Violations of chapter; penalties.** It shall be a misdemeanor for any person, including any corporation, association, or individual to:

- (1) Sell or fraudulently obtain or furnish any radiographer’s [or], radiation [therapy] therapist’s, or nuclear medicine technologist’s diploma, license, renewal, or record or aid or abet therein;
- [(2)] Practice radiologic technology as defined by this chapter under cover of any license or record illegally or fraudulently signed or issued unlawfully or under fraudulent representation;
- (3) Practice radiologic technology unless licensed to practice under this chapter;
- (4)[ (2)] Use in connection with the person’s name any designation tending to imply that the person is a certified radiographer [or], a certified radiation [therapy] therapist, or certified nuclear medicine technologist unless licensed to practice under this chapter;
- [(5)] (3) Practice radiologic technology during the time the person’s license issued under this chapter is suspended or revoked; or
- [(6)] (4) Violate this chapter.”

SECTION 9. Section 466J-1.6, Hawaii Revised Statutes, is repealed.

SECTION 10. Act 169, Session Laws of Hawaii 1994, is amended by amending section 9 to read as follows:

“SECTION 9. This Act shall take effect on July 1, 1994, and shall be repealed on July 1, 1996; provided that:

- (1) Sections 321-11.5, 321-15, and 342F-14, [466J-4, and 466J-5] Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 1994; [and]
- (2) The director of health shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the environmental health program enhancement and education fund, prior to June 30, 1996[.]; and
- (3) Sections 466J-4 and 466J-5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 1994, as further amended by sections 4 and 5 of Act 143<sup>1</sup>, Session Laws of Hawaii 1995.”

SECTION 11. In codifying this Act, the revisor of statutes shall insert the appropriate number of this Act in section 10.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 13. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

Notes

1. 143 reference added by revisor.
2. Edited pursuant to HRS §23G-16.5.

ACT 144

S.B. NO. 1732

A Bill for an Act Relating to the Licensing Records of Massage Therapists and Massage Therapist Apprentices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 452-9, Hawaii Revised Statutes, is amended to read as follows:

**“§452-9 Records of board.** The board shall keep a record of all of its proceedings and activities including all applications, and the action taken thereon. The books and records of the board shall be prima facie evidence of matters therein contained[, and shall constitute public records]. The provisions of chapter 92F, shall prevail in the disclosure of information maintained by the board.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1995.)

ACT 145

S.B. NO. 1804

A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall

- certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
  - (5) Employees in the office of the governor and household employees at Washington Place;
  - (6) Positions filled by popular vote;
  - (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
  - (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
  - (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court, one additional law clerk for the civil administrative judge of the circuit court of the first circuit, one additional law clerk for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the family court administrative judge of the family court of the fifth circuit, one additional law clerk for the civil motions judge of the circuit court of the first circuit, one additional law clerk for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
  - (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
  - (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service em-

ployment such as the federal Comprehensive Employment and Training Act of 1973;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; [three] four additional deputies in the department of health, each in charge of one of the following: administration, behavioral health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that not more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Act 212, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. (a) Except for positions in the department of education [and]; positions in the University of Hawaii[.]; positions in the Hawaii state hospital of the department of health; positions in the correctional facilities of the department of public safety; positions in programs that are one hundred per cent federally funded; positions in the Hawaii housing authority that are one hundred per cent specially funded or one hundred per cent federally funded; the commissioner of financial institutions of the department of commerce and consumer affairs; the chief negotiator for the office of collective bargaining; and positions whose salaries are set forth in sections 26-52, 26-53, and 26-54, Hawaii Revised Statutes, with respect to positions in the executive branch vacated pursuant to section 2:

- (1) Thirty per cent of the positions vacated in each department may be refilled by the head of the department to ensure the continued ability of the department to carry out its public purpose;
- (2) Thirty per cent of the positions vacated in each department shall be held vacant for fiscal year 1995-1996 and shall be assigned to a statewide personnel pool; provided that after June 30, 1996, the governor may propose the transfer of vacant positions between executive departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget; and
- (3) Forty per cent of the positions vacated in each department shall be eliminated.

(b) With respect to positions in the judiciary vacated pursuant to section 2:

- (1) Thirty per cent of the positions vacated may be refilled by the chief justice to ensure the continued ability of the judiciary to carry out its public purpose;
- (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; and
- (3) Forty per cent of the positions vacated shall be eliminated.

(c) With respect to positions in the University of Hawaii vacated pursuant to section 2:

- (1) Seventy per cent of the positions vacated may be refilled by the president of the University of Hawaii, with the approval of the board of regents; provided that these positions shall be reallocated as necessary to restructure and organize the university to ensure the continued provision of appropriate, direct, student-related services; and
- (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; provided that after June 30, 1996, the president of the University of Hawaii may propose the transfer of vacant positions between divisions, programs, and departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget.

(d) With respect to positions in the department of education vacated pursuant to section 2, twenty per cent of the vacated statewide administrative positions shall be eliminated.

(e) With respect to:

- (1) Positions in the Hawaii state hospital of the department of health;
- (2) Positions in the correctional facilities of the department of public safety;
- (3) Positions in programs that are one hundred per cent federally funded;
- (4) Positions in the Hawaii housing authority that are one hundred per cent specially funded or one hundred per cent federally funded;

- (5) The commissioner of financial institutions of the department of commerce and consumer affairs;
- (6) The chief negotiator for the office of collective bargaining; and
- (7) Positions whose salaries are set forth in sections 26-52, 26-53, and 26-54, Hawaii Revised Statutes;

vacated pursuant to section 2; one hundred per cent of the vacated positions; the commissioner of financial institutions of the department of commerce and consumer affairs; and the chief negotiator for the office of collective bargaining, may be refilled by the head of the department to ensure the continued ability of the department to carry out its public purpose.

[(e)] (f) Funding allocations for positions vacated pursuant to this Act and refilled pursuant to this section shall be computed on the basis of the average monthly salary of the department from which the person retired, and shall be distributed accordingly. All amounts already allocated for positions vacated pursuant to this Act shall be returned to the general fund. Each department shall report its position reallocations to the director of finance, who shall report this information to the legislature no later than twenty days prior to the convening of the regular session of 1996."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 9, 1995.)

## ACT 146

S.B. NO. 500

A Bill for an Act Relating to Measurement Standards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Current regulation requires trucks with meters and other commercial sales meters to have devices that continuously compensate for temperature changes in the sale of fuels other than during bulk transfers. The legislature finds that it is not necessary to require such devices because Hawaii does not have a widely fluctuating temperature range.

The purpose of this Act is to eliminate the need for these devices for sales of less than bulk amounts of petroleum products (under 200 gallons per minute). This Act would not change the requirement to have automatic temperature compensation for bulk transfers into trucks at terminals. The consumer and the public are still protected because sales to end users are corrected twice: once automatically at the terminal and again by the existing standard temperature protocol at retail and commercial meters. In addition, this Act will save the government money by reducing the need for the department of agriculture, division of measurement standards, to train staff, acquire test equipment, establish test protocols, and to certify such devices.

SECTION 2. Section 486-52, Hawaii Revised Statutes, is amended to read as follows:

**"§486-52 Measurement standard.** (a) Any petroleum product which is in a liquid state under conditions of [760] seven hundred sixty millimeters of Hg at sixty

degrees fahrenheit shall be measured in terms of the U.S. petroleum gallon; its multiple or decimal submultiples, or compatible units of the SI as established by rule of the board.

(b) Any petroleum product which is in a vapor state under conditions of 258.575 millimeters or less of Hg at sixty degrees fahrenheit shall be measured in terms of cubic feet or in terms of a U. S. petroleum gallon, their multiples or decimal submultiples, or compatible units of the SI as established by rule of the board.

(c) Any device required to automatically compensate for temperature shall only apply to metered sales of liquid petroleum products that have a rated capacity of two hundred gallons per minute or more; provided that whenever a partial compartment or partial tank truck load is delivered, it shall be delivered through a meter that meets the requirements specified in rules adopted by the department."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

## ACT 147

S.B. NO. 593

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 237, Session Laws of Hawaii 1988, as amended by Act 249, Session Laws of Hawaii 1990, as amended by Act 69, Session Laws of Hawaii 1991, as amended by Act 177, Session Laws of Hawaii 1993, and as amended by Act 162, Session Laws of Hawaii 1994, is amended by amending section 4 to read as follows:

2, the board of land and natural resources shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b); provided that if the appraisal is not completed before December 31, 1995, the annual lease rent shall be based on real property assessed valuations of the respective properties as of December 31, 1995, at an annual rate of return of three and one-half per cent;
- (2) Impose [such] other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37 as may be required to protect the State's interests;
- (3) Recover from the lessee the cost of subdividing the parcel; and
- (4) Require the payment of annual lease rent based on fair market value and a premium[,] computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years that the lessee had occupied the land under revocable permit not to exceed four years."

SECTION 2. Act 237, Session Laws of Hawaii 1988, is reenacted as of July 1, 1995; provided that Act 237, Session Laws of Hawaii 1988, as amended by Act 249, Session Laws of Hawaii 1990, as amended by Act 69, Session Laws of Hawaii 1991, as amended by Act 177, Session Laws of Hawaii 1993, and as amended by Act

## ACT 148

162, Session Laws of Hawaii 1994, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, [1995.] 1996.”

SECTION 3. Session law material to be repealed is bracketed. New session law material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

## ACT 148

S.B. NO. 647

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the U.S. Congress enacted the Gun-Free Schools Act of 1994 as an amendment to the Elementary and Secondary Education Act of 1965, as amended. This federal act requires that all states adopt a mandatory expulsion policy for any student attending a public school who is found in possession of a firearm, provided that the local governing authority may modify the expulsion policy on a case-by-case basis. The legislature further finds that this federal mandate requires the states to adopt this policy by October, 1995, in order to continue to receive federal funds under the Elementary and Secondary Education Act of 1965, as amended.

The purpose of this Act is to adopt as state law the mandates of the federal act in order to continue to receive federal funds.

SECTION 2. Section 298-11, Hawaii Revised Statutes, is amended to read as follows:

“**§298-11 Exclusion from school.** (a) If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent. The department of education shall seek the active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action.

(b) Any child who is found to be in possession of a firearm while attending school shall be excluded from attending school for not less than one year. The due process procedures of Chapter 19 of the Department of Education, Hawaii Administrative Rules shall apply to any child who is alleged to be in possession of a firearm while attending school. The superintendent may modify the exclusion of a child found to be in possession of a firearm while attending school on a case-by-case basis. In the event a child is excluded from attending school, the superintendent shall ensure that substitute educational activities or other appropriate assistance shall be provided. The superintendent shall submit to the United States Department of Education, the state board of education, and the legislature an annual report indicating the number of students excluded, the types of firearms found in their possession, and the schools from which they were excluded.



(c) No child who is seventeen years of age or over shall be admitted to the ninth grade of a public four-year high school, and no child who is eighteen years of age or over shall be admitted to the tenth grade of a public senior high school, except upon the written permission of the superintendent when in the superintendent's opinion the facts warrant such admission."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

## ACT 149

S.B. NO. 889

A Bill for an Act Relating to Sports.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

**"§109-2 Stadium authority; powers and duties.** The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities[.];
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities[.];
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter[.];
- (4) To [make,] adopt, amend, and repeal in accordance with chapter 91 [such] rules [as] it may deem necessary[.] to effectuate this chapter and in connection with its projects, operations, and facilities;
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76, 77, and 89. Effective January 1, 1989, and January 1, 1990, the salary of the manager shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively. Effective January 1, 1989, and January 1, 1990, the salary of the deputy manager shall be \$62,854 and \$65,683 a year, respectively. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge a secretary who shall be exempt from the requirements of chapters 76, 77, and 89, and such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager [and], deputy manager, and secretary, all appoint-

ments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77[.]; and

- (6) To plan, promote, and market the stadium and its related facilities.”

SECTION 2. Section 109-3, Hawaii Revised Statutes, is amended to read as follows:

“**§109-3 Stadium special fund.** There is created a special fund to be known as the stadium special fund into which funds collected by the authority shall be deposited. The fund shall be applied, used, and disposed of for the payment of:

- (1) The expenses of the operation, maintenance, promotion, and management of; and
- (2) All or a portion of the cost of financing any capital improvement project for;

the stadium and related facilities; provided that all services required for the stadium and related facilities shall be performed by persons hired on contract or otherwise, without regard for chapters 76 [or] and 77; provided further that the authority shall report to the legislature all receipts and expenditures of the stadium special fund account twenty days prior to the convening of each regular session.”

SECTION 3. With the assistance and cooperation of other governmental agencies, the stadium authority shall be responsible for the planning, promotion, and marketing of the Aloha stadium and its related facilities, and shall to the extent possible work toward generating positive national and international media exposure for Hawaii through sports and other events.

SECTION 4. The auditor shall conduct a review of sports promotion activities now performed by the department of business, economic development, and tourism to determine:

- (1) Whether the transfer of some or all of those activities to the stadium authority, another existing agency, or a separate sports authority would promote efficiency or cost effectiveness;
- (2) What measures will be necessary to avoid commingling of funds between the stadium special fund and the general fund; and
- (3) How the general fund would be affected by such a transfer.

The auditor shall submit a report of the findings and recommendations to the legislature prior to the convening of the regular session 1996.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

## ACT 150

S.B. NO. 1905

A Bill for an Act Relating to State Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a large sector of the weekday Oahu commuter population includes households with children in which the parents must

travel into Honolulu to their workplace. In addition to the long commute, these residents have the added concerns of costly parking fees in downtown Honolulu and making suitable child care arrangements for extended hours beyond the normal workday. The legislature further finds that because of their lengthy commute, these residents have continuing concern over the effects it has on their children and the well-being of their family. An additional concern for Oahu residents is the negative impact upon the environment from the number of vehicles being used in the daily commute. The legislature believes that these concerns require urgent attention, and in view of the State's present fiscal situation any proposed solutions will need to consider the efficient use of state resources.

One example of an innovative approach would be to develop a child care/park and ride facility using the underutilized parking and facility space at Aloha stadium to provide relief for Honolulu-bound commuters from west Oahu and windward Oahu once the H-3 is opened.

The purpose of this Act is to create a temporary state facilities innovation task force to plan a pilot child care/park and ride project at Aloha stadium.

SECTION 2. There is created a temporary state facilities innovation task force, to be placed within the office of state planning for administrative purposes only. The task force shall be terminated on June 30, 1996. The task force shall consist of:

- (1) The director of health;
- (2) The director of human services;
- (3) The director of transportation;
- (4) The comptroller;
- (5) The director of the office of children and youth;
- (6) The director of the office of state planning;
- (7) The stadium manager;
- (8) The chairperson of the Hawaii early childhood education and care coordinating committee;
- (9) The mayor of the city and county of Honolulu; and
- (10) A representative of the community surrounding Aloha stadium to be selected by the chairperson of the task force;

or any of their designated representatives. The director of the office of state planning shall serve as chairperson of the task force and shall be responsible for administration of the task force.

SECTION 3. The task force shall organize within sixty days of the effective date of this Act and, as soon as practicable but no later than June 30, 1996, plan a pilot child care/park and ride facility project at Aloha stadium.

SECTION 4. In planning the pilot project, the task force shall determine the most economic method to offer these services, including the use of existing state resources, so that the most affordable rates for services can be offered to the public. To this end, the task force shall consider:

- (1) The design of Aloha stadium and how it can most economically be retrofitted, if necessary, for the combined child care/park and ride project, along with estimated planning, design, and construction costs;
- (2) Information provided by the Hawaii early childhood education and care coordinating committee;
- (3) Staffing requirements and whether public or private contract employees should be used for either or both child care and park and ride;
- (4) Projected operating costs;
- (5) Security requirements for the operation of the project;

- (6) What type of transportation vehicles may be suitable and immediately available for the park and ride aspect of the project and whether public or private services should be used;
- (7) Health and safety requirements and how those requirements can be met expeditiously to expedite the implementation of the pilot project;
- (8) Ways to secure federal funding, for both the park and ride component and the child care component;
- (9) The logistics for selecting participants for the project and the establishment of reasonable fees for the services which will offset all direct costs to the state; and
- (10) Issues related to ceded lands and the existing quitclaim deed covenants restricting the uses of Aloha stadium to recreational purposes only.

SECTION 5. The task force shall submit a progress report on the planning of this pilot project to the legislature twenty days prior to the convening of the 1996 regular session.

SECTION 6. This Act shall take effect on July 1, 1995.

(Approved June 13, 1995.)

**ACT 151****H.B. NO. 929**

A Bill for an Act Relating to the Commission on the Status of Women.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the present placement of the Hawaii state commission on the status of women within the department of human services is inappropriate. The legislature finds that the broad scope of responsibilities assigned to the commission under chapter 367, Hawaii Revised Statutes (HRS), exceed the statutory mandate of the department of human services as defined in chapters 26 and 346, HRS. Moreover, the legislature is well aware of the tremendous workload and budget constraints within the department of human services. In view of these considerations, the legislature finds that housing the commission on the status of women elsewhere would help to alleviate some of these concerns by eliminating the need for the department to oversee an office whose function and focus is frequently outside the scope of the department's mandate.

The legislature further finds that, for the purposes of Article V, section 6, of the State Constitution, the Hawaii state commission on the status of women is a unique statewide temporary agency created for the special purpose of developing long-range goals and coordinating research, planning, programming, and action on the opportunities, needs, problems, and contributions of women in Hawaii. The special purpose of the commission is confirmed by its broad interdepartmental nature, which is recognized in its statute through the representation of: the office of the attorney general; the governor's committee on children and youth; the superintendent of education; the president of the University of Hawaii; the director of labor and industrial relations; the director of the human resources development; and the director of human services on the commission as ex officio members. As chapter 367-3, HRS, indicates, the duties of the commission are broad and involve coordination with a number of different state departments, none of which is complementary with the mission of the commission, which is to improve the education, social, legal, political, and employment status of Hawaii's women. Therefore, the governor has

indicated that the office of the lieutenant governor is the appropriate administrative location for the commission.

Accordingly, the purpose of this Act is to transfer the Hawaii state commission on the status of women to the office of the lieutenant governor.

SECTION 2. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

**“§26-1 Office of the lieutenant governor.** (a) Except as otherwise provided by law, the lieutenant governor is designated the secretary of State for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, supervision of elections, recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules [and regulations promulgated] adopted by state departments as provided in chapter 91. The lieutenant governor may employ staff as necessary without regard to the provisions of chapters 76 and 77, except for six permanent election positions pursuant to section 11-5.

(b) The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during the lieutenant governor's temporary absence [without] outside the State or during the lieutenant governor's illness whenever the documents require the signature of the lieutenant governor. The person shall affix the person's own signature to the document with the words, “for the lieutenant governor” following and the signature shall be deemed to satisfy the requirement of the lieutenant governor's signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on the lieutenant governor's official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article V, section 4, of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to Article V, section 4, of the Constitution.

(c) In addition to the functions and duties provided by law, the lieutenant governor shall assume administrative responsibility for the Hawaii state commission on the status of women.”

SECTION 3. Section 367-2, Hawaii Revised Statutes, is amended to read as follows:

**“§367-2 State commission on status of women: membership.** (a) There is created a temporary state commission on the status of women for a special purpose within the [department of human services] office of the lieutenant governor for administrative purposes.

(b) The commission shall consist of [not fewer than fifteen nor more than twenty-five] thirteen members]. The membership], which shall include:

- (1) Ex officio, [the director of the office of children and youth,] the superintendent of education, the president of the University of Hawaii, the director of labor and industrial relations, the director of human

resources development, the director of human services, and the director of health[.]; and

- (2) The remaining seven members shall be appointed by the governor in accordance with section 26-34.

(c) Of the appointed seven members there shall be [at least] one member from each of the counties of Hawaii, Maui, and Kauai[.], and four members from Oahu.

(d) The members shall be selected on the basis of their interests and knowledge in, and their ability to make contributions to, the solution of problems relating to the status of women. The chairperson shall be elected annually from the nongovernmental members of the commission as defined in subsection (b)(2).''

SECTION 4. Section 367-2.5, Hawaii Revised Statutes, is amended to read as follows:

''**[[§367-2.5]] Executive [secretary.] director.** The commission shall appoint an executive [secretary] director for the proper administration and enforcement of this chapter without regard to chapters 76 and 77.''

SECTION 5. Section 367-4, Hawaii Revised Statutes, is amended to read as follows:

''**§367-4 County committees on status of women, membership, organization, etc.** The mayor of each county shall appoint a county committee on the status of women charged with the duty and responsibility of developing [such] information as the state commission on the status of women requires or as [such] the committee deems advisable concerning the status of women within the respective counties; and [such] other appropriate duties and responsibilities as may be deemed necessary by each county. The committees shall submit to the state commission, plans and proposals affecting the status of women in the several counties. Each county committee shall endeavor to secure the widest possible citizen participation in its efforts and, for this purpose, may utilize existing public or private organizations. The membership of each county committee shall include, ex officio, the county attorney or corporation counsel; the senior county representative of the office of children and youth; and the county representative of the commission on the status of women. The other members shall be selected on the basis of their interest and knowledge in, and their ability to make contributions to, the solution of problems relating to the status of women within the county and their knowledge of local conditions. The [chairman] chairperson shall be elected annually from the nongovernmental members of the committee. [One-third of the nongovernmental members of the county committees shall be appointed initially for the term of four years, one-third for the term of three years, and one-third for the term of two years, and thereafter the] The terms of office of each member shall be four years. Each county committee shall meet at least four times a year. The members of the county committees shall receive no compensation for their services. The respective county legislative bodies are authorized to make appropriations to meet the necessary expenses of [such] the committees.''

SECTION 6. All rights, powers, functions, and duties of the department of human services, relating to the commission on the status of women, are transferred to the office of the lieutenant governor with the exception of the functions of the secretary I position.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

SECTION 7. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of human services, relating to the commission on the status of women shall be transferred with the functions to which they relate.

SECTION 8. All rules, policies, procedures, guidelines, and other material adopted or developed by the agency transferred under this Act to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the office of the lieutenant governor by this Act, shall remain in full force and effect until amended or repealed by the office of the lieutenant governor pursuant to chapter 91.

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the agency transferred under this Act pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the office of the lieutenant governor by this Act, shall remain in full force and effect.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 1995.

(Approved June 13, 1995.)

## ACT 152

H.B. NO. 1833

A Bill for an Act Relating to Change of Name.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The filing fee of [\$10] \$50 shall accompany the petition when submitted and shall not be refundable.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

## ACT 153

H.B. NO. 1968

A Bill for an Act Relating to Rubella Testing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§325- **Rubella testing of pregnant women.** Every person permitted by law to attend a pregnant woman in the State, during the period of gestation or at delivery, shall cause a blood specimen from that woman to be tested for immunity to rubella, except when the woman does not consent or there is documentation that the woman has been tested previously for immunity to rubella or has been immunized against rubella.”

SECTION 2. Section 572-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The department or its authorized agents shall furnish to each applicant for a marriage license a brochure explaining rubella, the risks of infection with rubella during pregnancy, and how to seek testing and immunization. The department or its authorized agents shall also furnish to each applicant for a marriage license information, to be provided by the department, relating to population stabilization, family planning, birth control, fetal alcohol and drug syndromes, and acquired immune deficiency syndrome (AIDS), including the availability of anonymous testing for HIV infection at alternate test site;<sup>1</sup> provided that such information is available.”

SECTION 3. Section 572-7, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

**Notes**

1. Prior to amendment “sites” appeared here.
2. Edited pursuant to HRS §23G-16.5.

**ACT 154**

H.B. NO. 1997

A Bill for an Act Relating to Family Leave.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature enacted Act 328, Session Laws of Hawaii 1991, to require employers with one hundred or more employees to provide four weeks of unpaid or paid leave upon the birth of a child of an employee or the adoption of a child or to care for the employee’s child, spouse, or parent with a serious health condition. Act 328 took effect on January 1, 1992, for public sector employers and on July 1, 1994, for private sector employers.

The purpose of this Act is to provide procedures and remedies needed to enforce the state family leave law.

SECTION 2. Chapter 398, Hawaii Revised Statutes, is amended by designating sections 398-1 to 398-11 as part I and inserting a title before section 398-1 to read as follows:



## **“PART I. GENERAL PROVISIONS”**

SECTION 3. Chapter 398, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **“PART . ENFORCEMENT**

**§398-A Filing of complaint.** (a) Any individual claiming to be aggrieved by an alleged unlawful act may file with the department a verified complaint in writing.

(b) The attorney general or the department, in like manner, may file a complaint on behalf of an individual.

(c) A complaint may be filed on behalf of a class by the attorney general or the department.

(d) No complaint shall be filed after the expiration of ninety days after the:

(1) Date of the alleged unlawful act; or

(2) Date of discovery by the employee of the alleged unlawful act; however, in no event shall such a complaint be filed after the expiration of one hundred eighty days of the alleged unlawful act.

(e) After the filing of any complaint, the attorney general or the department, as applicable, shall serve a copy of the complaint upon the employer.

**§398-B Predetermination settlement.** At any time after the filing of a complaint, but prior to a determination by the department that this chapter has been violated, the parties may agree to resolve the complaint through a predetermination settlement.

**§398-C Investigation and conciliation.** (a) The department may investigate and conciliate any complaint filed under this chapter.

(b) Every employer shall furnish or provide to the department access to records, documents, and other material to determine compliance with this chapter. The department shall have the right to examine, photograph, or copy the material and interview witnesses at the place of employment or business during regular working hours with respect to any matter under this chapter.

(c) The department may require by subpoena the attendance and testimony of witnesses and the production of all records, payrolls, correspondence, documents, and other material relative to any matter under investigation.

(d) If the department determines after investigation that this chapter has been violated, the department shall inform the employer and endeavor to remedy the violation by informal methods, such as conference or conciliation.

(e) If the department finds that methods in subsection (d) will not resolve the complaint, the department shall issue an order and a demand for compliance.

(f) If the department issues an order that finds that an employer has violated the requirements of this chapter, the department may prescribe relief as provided under this chapter.

**§398-D Appeal and hearing.** (a) Upon appeal by the employer, the order issued by the department shall be subject to a de novo review by a hearings officer appointed by the director.

(b) The hearings officer shall schedule a contested case hearing that shall be heard in accordance with chapter 91.

(c) At any time after the filing of an appeal under subsection (a), but prior to the hearing, the hearings officer may hold a prehearing conference with the parties or their representatives.

(d) If a hearing is held as provided under subsection (b), the hearings officer shall issue a decision and grant relief as provided under this chapter.

(e) Any person aggrieved by the decision of the hearings officer shall be entitled to judicial review as provided by section 91-14.

(f) The hearings officer may administer oaths, take or cause to be taken depositions of witnesses, and may issue subpoenas to compel the attendance and testimony of witnesses or the production of records, payrolls, correspondence, documents, or other material relating to any matter to be heard.

**§398-E Civil action.** (a) If an employer fails or neglects to comply with the:

(1) Final order of the department from which no appeal has been taken as provided by this chapter; or

(2) Final decision of the hearings officer,

the department or the affected employee may apply to any court of competent jurisdiction to enforce the provisions of the final order or decision and for any other appropriate relief. In any proceeding to enforce the provisions of the final order or decision, the department or the affected employee need only file with the court proof that a certified copy of the final order or decision was served. In the case of the final decision, proof that the notice of hearing was given also must be filed with the court.

(b) Any action to enforce this chapter, or to recover damages or equitable relief prescribed by this chapter, may be maintained in any court of competent jurisdiction by any one or more employees for and on behalf of the employee or employees, or the employee or employees may designate an agent or representative to maintain the action.

(c) In any action brought under this chapter, the court shall allow, in addition to any judgment awarded to the plaintiff, costs of action, including fees of any nature, and reasonable attorney's fees to be paid by the defendant.

**§398-F Remedies.** (a) In addition to all employment terms and benefits provided under section 398-7, remedies prescribed and ordered by the department or the court under this chapter may include any legal, equitable, and other relief the department or court deems appropriate.

(b) Relief under this section may include:

(1) The amount of any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation; or

(2) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to four weeks of wages or salary for the employee.

(c) An employer may be liable for an additional amount as liquidated damages equal to the sum of the applicable amount in subsection (b)(1) and (2); provided that if an employer who has violated this chapter proves to the satisfaction of the department or the court that the act or omission that violated this chapter was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this chapter, the department or the court may reduce the amount of the liability to the applicable amount determined under subsection (b)(1) or (2).

**§398-G Notice of right to sue and employee remedies.** (a) The department may issue a notice of right to sue. Within ninety days after the receipt of a notice of right to sue, the complainant may bring a civil action under this chapter. The department may intervene in a civil action brought pursuant to this chapter if the case is of general importance.

(b) An action by an employee to enforce the provisions of this chapter may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of oneself or themselves, or the employee or employees may designate an agent or representative to maintain the action.

(c) The court in any action brought under this section, in addition to any judgment awarded to the plaintiff or plaintiffs, shall allow costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant.

(d) The court also may provide injunctive relief in appropriate circumstances.

**§398-H Compliance review.** The department may investigate whether the terms of an agreement, settlement, order, or decision are being complied with by the employer. If the employer is not in compliance, the department shall take appropriate action as provided under this chapter.

**§398-I Penalty.** Any employer who intentionally resists, prevents, impedes, or interferes with the department in the performance of duties pursuant to this chapter, or who in any manner intentionally violates this chapter, shall be guilty of a petty misdemeanor."

SECTION 4. Section 398-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"“Department” means the department of labor and industrial relations.”

2. By amending the definition of “child” to read:

““Child” means an individual who is a biological, [step,] adopted, or foster son or daughter; a stepchild; or a legal ward of an employee.”

3. By amending the definition of “serious health condition” to read:

““Serious health condition” means [an acute, traumatic, or life-threatening illness, injury, or impairment, which involves treatment or supervision by a health care provider.] a physical or mental condition that warrants the participation of the employee to provide care during the period of treatment or supervision by a health care provider, and:<sup>1</sup>

- (1) Involves inpatient care in a hospital, hospice, or residential health care facility; or
- (2) Requires continuing treatment or continuing supervision by a health care provider.”

SECTION 5. Section 398-4, Hawaii Revised Statutes, is amended to read as follows:

**“[[§398-4]] Unpaid leave permitted; relationship to paid leave. (a)** Pursuant to section 398-3, an employee shall be entitled to four weeks of family leave. The family leave shall consist of unpaid [or] leave, paid leave, or a combination of paid and unpaid leave. If an employer provides paid family leave for fewer than four weeks, the additional period of leave added to attain the four-week total may be unpaid. [Further, an]

(b) An employee or employer may elect to substitute any of the employee's accrued paid leaves such as sick, vacation, personal, or family leave for any part of the four-week period[.] in subsection (a); provided that an employer or employee may not substitute an employee's accrued sick leave in any situation under this chapter unless:

- (1) Sick leave is normally granted for such purposes by an employer's policy or practice; or
- (2) Upon mutual agreement by the employer and the employee."

SECTION 6. Section 398-6, Hawaii Revised Statutes, is amended to read as follows:

“[[§398-6]] Certification. (a) An employer may require that a claim for family leave be supported by written certification [of].

(b) For the birth of [the] a child, certification shall be issued by a health care provider[.] or the family court[, or certification of]. For the placement of [the] a child for adoption with the employee, certification shall be issued by a recognized adoption agency, the attorney handling the adoption, or by the individual officially designated by the birth parent to select and approve the adoptive family.

(c) When leave is to care for a child, spouse, or parent who has a serious health condition, certification shall be issued by the health care provider of the individual requiring care. Certification shall be considered sufficient if it provides information as required by the director."

SECTION 7. Section 398-9, Hawaii Revised Statutes, is amended to read as follows:

“[[§398-9] Enforcement and administration.] Administration. (a) The director shall have jurisdiction over those prohibited acts made unlawful by this chapter. [Any individual claiming to be aggrieved may file with the director a verified complaint in writing that shall state the name and address of the employer alleged to have committed the unlawful act complained of, set forth the particulars thereof, and contain other information as may be required by the director. The attorney general, or the director upon the director's initiative, may, in like manner, make and file a complaint.

(b) A complaint may be filed on behalf of a class by the attorney general or the director, and a complaint so filed may be investigated, conciliated, heard, and litigated on a class action basis.

(c) (b) The [director] department shall assist employers in the [training and] placement of temporary help to perform the work of those employees on family leave.

[(d)] (c) The director also may [also] hire, subject to chapters 76 and 77, [assistants and] investigators, hearings officers, clerical, stenographic, and other [help] staff as may be necessary to administer and enforce this chapter."

SECTION 8. In codifying the new part added to chapter 398, Hawaii Revised Statutes, by section 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 1995; except that section 398-D of section 3 of this Act shall take effect on July 1, 1996.

(Approved June 13, 1995.)

**Note**

1. Should be underscored.

**ACT 155**

H.B. NO. 2031

A Bill for an Act Relating to Eminent Domain.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 101-12, Hawaii Revised Statutes, is amended to read as follows:

**“§101-12 Evidence.** In addition to rules of evidence otherwise provided by law, [sections 246-40 and 246-46 shall apply to] in all proceedings brought under this part[.] the valuation claimed by the taxpayer shall be taken into account. The valuation claimed by the taxpayer in any appeal regarding the assessment of real property tax shall be admissible in evidence as an admission of the fair market value of the real property as of the date of assessment irrespective of the fact that the assessed value from which the taxpayer appealed is adjusted to one hundred per cent fair market value; provided that the evidence shall not in any way affect the right of the taxpayer to severance damages, if any, to which the taxpayer may be entitled, and provided further that, if the taxpayer appealing the assessed value of the real property is a person under a contractual obligation to pay the tax assessed against the fee owner, whether such appeal is deemed consented to by the fee owner, the valuation claimed by such person shall not be admissible in evidence in any eminent domain proceeding against the fee owner.”

SECTION 2. Section 101-35, Hawaii Revised Statutes, is amended to read as follows:

**“§101-35 Tax official as party; certificates, etc.** Whenever an eminent domain proceeding is brought by the State or any county for the purpose of acquiring the fee simple estate in real property neither the director of taxation, county finance director, or any other tax official shall be joined as party respondent merely on account of any lien for state taxes set forth in title 14 or for county real property taxes. The appropriate director or tax official, as the case may be, may intervene in the proceeding as provided by section 101-21. Upon filing the complaint the plaintiff shall furnish a copy thereof to the appropriate director<sup>1</sup> or tax official and shall also furnish the appropriate director or tax official a copy of any amended complaint.”

SECTION 3. Section 101-36, Hawaii Revised Statutes, is amended to read as follows:

**“§101-36 Certificate of deposit of moneys in court[.]; notice of lien.** If any moneys are paid into court by the plaintiff in the course of an eminent domain proceeding, the plaintiff or its attorney shall certify the fact of the payment to the director of taxation or county finance director, as the case may be, and shall further certify the date when possession of the land on account of which the payment was made was acquired by the plaintiff, or in the event of entry of a final order of

condemnation without previous possession of the land, shall certify the date of the final order of condemnation. A copy of the certificate shall be filed as part of the record in the case. In the event of a final determination granting the application of any party for the payment to the party of any of the moneys so paid into court, or if a final order of condemnation is entered, then immediately upon receipt of the certificate[,], the appropriate director shall certify to the clerk of the court in which the eminent domain proceeding is pending the amount of state taxes set forth in title 14 or county real property taxes, penalties, and interest constituting a lien upon the land so coming into the possession of the plaintiff, or constituting a lien upon the land which was the subject of the final order of condemnation, as the case may be[, and in]. In computing the amount of the lien the county director of finance shall cause the real property taxes due on the parcel of land or portion of a parcel of land so coming into the possession of the plaintiff or made the subject of the final order of condemnation, to be remitted for the balance of the taxation period or year from and after the date of possession or, in the event of entry of a final order of condemnation without previous possession by the plaintiff, from and after the date on which the final order of condemnation was entered, as the case may be. The county director of finance or other tax official may remit the taxes in the manner provided by this section upon the receipt of the certificate.”

SECTION 4. Section 101-37, Hawaii Revised Statutes, is amended to read as follows:

**“§101-37 Payment of taxes out of deposit.** The amount of the taxes, penalties, and interest so certified shall be paid to the tax official making the certificate by the clerk of the court from the moneys paid into court, and no clerk shall distribute any moneys so paid into court without the consent of the director of taxation[,], or county finance director, as the case may be, unless the certificate has been furnished. The clerk shall apportion the tax lien among the parties entitled to receive the moneys so paid into court in accordance with the direction of the court. Any of the parties may petition the court for determination of the correct amount of taxes, making the appropriate director a party to the proceeding. Upon the conclusion of the proceeding the appropriate director shall make a new certificate in accordance with the final decision upon the matter, and showing additional penalties and interest, if any.”

SECTION 5. Section 101-38, Hawaii Revised Statutes, is amended to read as follows:

**“§101-38 Further certificate of possession.** In the event possession of any land which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such lands is obtained by the State or any county, whether or not any moneys are paid into court at the time, the plaintiff or its attorney upon the request of any interested person shall certify the date of the possession to the director of taxation[,], or county finance director, as the case may be, and upon receipt of the certificate the appropriate director[,], or appropriate state or comparable county tax collector and other tax official may remit the taxes in the manner provided in section 101-36.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 13, 1995.)

**Note**

1. "Director" should not be underscored.

**ACT 156**

S.B. NO. 87

A Bill for an Act Relating to the Release of Pretrial Inmates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 305, Session Laws of Hawaii 1993, as amended by Act 195, Session Laws of Hawaii 1994, is amended by amending section 1 to read as follows:

"SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"§353- Release of pretrial inmates to prevent overcrowding.** (a) Notwithstanding [the provisions of] chapter 804 and any other law to the contrary and except as provided in subsection (b), the director or [the director's] a designee of the director may order the release of pretrial inmates on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director's order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. A copy of the director's order shall be filed with the court in which the charge against the pretrial inmate is pending.

(b) No person who has been denied bail or whose bail has been set at more than [\$5,000] \$10,000 pursuant to chapter 804, or who has been charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3, or for a crime involving violence against a person, shall be eligible for release pursuant to this section.

(c) Prior to the release of any inmate pursuant to this section, the director or a designee of the director shall notify the prosecuting authority that the inmate will be released pursuant to this section.

(d) The power to release a pretrial inmate pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers and nothing [herein] in this section shall be construed as granting any person the right to be released. An order releasing a pretrial inmate pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the pretrial inmate.

[(d)] (e) The State, its officers, and employees, shall not be subject to any civil liability or penalty for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the State, its officers, and employees, in an official capacity under this section.

[(e)] (f) The director shall adopt rules in accordance with chapter 91 for the release of pretrial inmates pursuant to this section.

**§353- Terms and conditions of release; violations; sanctions.** (a) A pretrial inmate released pursuant to section 353- shall be subject to the conditions stated in section 804-7.4. In addition, the director may impose any of the conditions

which a court is authorized to impose pursuant to section 804-7.1 and shall impose any conditions contained in any court order superseded by the director's order.

(b) Every pretrial inmate released under this section shall be subject to the express condition, to be set forth in the official written notification of release, that release may be revoked by order of the director or [the director's] a designee of the director in the event that the pretrial inmate violates any terms or conditions of the release.

Upon receipt of specific information from an intake service center worker that a pretrial inmate has violated any of the terms or conditions of the release, the director or [the director's] a designee of the director may order the arrest and temporary return to custody of the pretrial inmate for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the pretrial inmate's release under section 353-. The arrest order shall state the alleged violation which gave rise to its issuance.

Upon the retaking of the pretrial inmate into custody, hearing on the alleged violation shall be conducted promptly for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the pretrial inmate's release. The pretrial inmate shall have, with respect to the revocation hearing, those rights set forth in [subsection 706-670 (3)(a), (3)(b), (3)(c), and (3)(d).] section 706-670(3).

If sufficient cause for the alleged violation of terms or conditions of release is found at the hearing, the director or [director's] a designee of the director may impose different or additional conditions on the pretrial inmate's release or revoke the pretrial inmate's release. If sufficient cause is not found, the pretrial inmate shall be released from custody subject to all of the original terms and conditions of release.

Notice of reincarceration shall be filed with the court."

SECTION 2. Act 305, Session Laws of Hawaii 1993, is amended by amending section 2 to read as follows:

"SECTION 2. No less than twenty days prior to the convening of the regular session of the legislature in 1994 [and], 1995, 1996, and 1997, the director shall report the progress of the program, and make recommendations for further legislative action."

SECTION 3. Act 195, Session Laws of Hawaii 1994, is amended by amending section 2 to read as follows:

"SECTION 2. No later than twenty days prior to the convening of the regular session of 1995, 1996, and 1997, the director shall submit a written report to the legislature on the recidivism rate of pretrial inmates released under this program."

SECTION 4. Act 305, Session Laws of Hawaii 1993, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on July 1, 1993, and shall be repealed on June 30, [1995.] 1996."

SECTION 5. Act 195, Session Laws of Hawaii 1994, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval[, and shall be repealed on June 30, [1995.] 1996."



SECTION 6. Statutory and session law material to be repealed is bracketed. New statutory and session law material is underscored.

SECTION 7. This Act shall take effect on June 29, 1995.

(Approved June 14, 1995.)

## ACT 157

S.B. NO. 159

A Bill for an Act Relating to Sentencing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 316, Session Laws of Hawaii 1993, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon its approval and shall be repealed on [June 30, 1995.] June 30, 2001.”

SECTION 2. Session law material to be repealed is bracketed. New session law material is underscored.

SECTION 3. This Act shall take effect on June 29, 1995.

(Approved June 14, 1995.)

## ACT 158

S.B. NO. 424

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the demand for additional classrooms and support facilities within our public school system has outpaced our ability to construct the necessary facilities, and thus there is an ever increasing backlog in the school construction program. The legislature further finds that one innovative approach which has been used in other states is to authorize school districts to enter into lease agreements with private developers and landowners.

Several measures introduced during the 1995 regular session have attempted to provide the proper authority to the department of education to proceed with the implementation of lease agreements. However, testimony on these measures by the department of education, while supportive of the concept, expressed concern about the department's lack of authority to negotiate leases on behalf of the State, which presently rests with the department of land and natural resources. Additional concerns were expressed about the potential effects on the State's bond rating and other fiscal impacts.

The purpose of this Act is to establish an interim study group composed of the appropriate state agencies to address such concerns and develop legislation which will allow the department of education to proceed pursuant to law.

SECTION 2. There is established an interim study group to review the concept of providing authority to the department of education to enter into lease

agreements for the acquisition of, including land for, public school facilities. The study group shall be composed of representatives from the departments of budget and finance, attorney general, land and natural resources, education, and accounting and general services.

The department of budget and finance shall serve as the lead agency to conduct meetings and shall convene the study group no later than sixty days after the effective date of this Act. The departments shall designate at least one representative to serve as liaison to the group and provide such technical expertise as is necessary and appropriate within the purview of each agency.

The scope of the study group shall include, but not be limited to a review of the following:

- (1) How to facilitate lease agreements for school acquisition, given the fragmentation of responsibility between several state agencies for school site selection and construction;
- (2) The cost-effectiveness of using lease agreements in the school construction program;
- (3) The fiscal impacts of using lease agreements upon the State's bond rating and ability to issue bonds; and
- (4) How state funds can be appropriated or authorized for lease agreements, given the concerns regarding encumbering future legislatures.

The department of budget and finance shall submit, on behalf of the study group, a report of findings and recommendations, including proposed legislation, to the legislature at least twenty days prior to the convening of the 1996 regular session.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 159

S.B. NO. 431

A Bill for an Act Relating to Harassment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§711- Aggravated harassment by stalking.** (1) A person commits the offense of aggravated harassment by stalking if that person commits the offense of harassment by stalking as provided in section 711-1106.5 and has been convicted previously of harassment by stalking involving the same person under section 711-1106.5 and:

- (a) The actions constituting the present offense are in violation of an existing court order, other than one issued ex parte, restraining the same person from contacting, threatening, or physically abusing the same complainant; or
  - (b) The actions constituting the present offense are in violation of a condition of probation or pretrial release involving the same person.
- (2) Aggravated harassment by stalking is a class C felony.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 160**

S.B. NO. 443

A Bill for an Act Relating to Sex Offenders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide for the registration of certain sex offenders with local law enforcement agencies when they are released into the community.

SECTION 2. Chapter 707, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§707- Registration of sex offenders; requirements; penalty.** (1) For purposes of this section, “sex offender” means any person who has been convicted of a felony sexual assault in this State or any other state, or United States territory or possession.

(2) Each sex offender, within three working days after arrival in a county in which the sex offender resides or expects to be present for a period exceeding one month, shall register with the county chief of police having jurisdiction of the area in which the sex offender resides or is present. Within three working days of any change of address, the sex offender shall notify, in writing, the chief of police with whom the sex offender is registered, of the change in address. If applicable, the chief of police shall forward registration data concerning the sex offender to the chief of police or head of the law enforcement agency having jurisdiction of the area in which the new residence is located.

(3) Registration of the sex offender shall consist of a recent photograph that shall be provided by the sex offender, fingerprints of the sex offender, and a signed statement by the sex offender containing:

- (a) Name and all aliases used by the sex offender or under which the sex offender has been known;
- (b) The address where the sex offender resides and how long the sex offender has resided there;
- (c) The address where the sex offender is staying temporarily, if other than the stated residence;
- (d) Current locations of employment; and
- (e) Vehicle registration information of any vehicles currently owned or operated by the sex offender.

(4) No person other than the chief of police, the head of a law enforcement agency, or their respective designees shall inspect the statements, photographs, or fingerprints required by this section.

(5) Each person in charge of a jail, prison, hospital, school, or other institution to which a sex offender has been committed pursuant to a conviction for a felony sexual assault and each judge who releases a sex offender on probation or

who discharges a sex offender upon payment of a fine, prior to the discharge, parole, or release of the sex offender, shall:

- (a) Explain to the sex offender the duty to register and the consequences of failing to register under this section;
  - (b) Require the sex offender to sign a statement indicating that the duty to register has been explained to the sex offender;
  - (c) Require the sex offender to indicate on the statement the address at which the sex offender expects to reside upon discharge, parole, or release; and
  - (d) Give one copy of the signed statement containing the address to the offender and mail one copy to the chief of police or head of the law enforcement agency having jurisdiction of the area in which the sex offender expects to reside.
- (6) No earlier than five years following a conviction for a felony sexual assault or five years following release from any incarceration imposed pursuant to such conviction, whichever is later, a sex offender registered under this section may apply to any circuit court for an order relieving the sex offender of the duty of further registration. The court shall hold a hearing on the application at which the applicant and any interested persons may present witnesses and other evidence. If, after the hearing, the court is satisfied, upon clear and convincing evidence, that the sex offender is rehabilitated, the court may grant an order relieving the sex offender of the duty of further registration. If the application is denied, a new application may not be submitted earlier than one year following the denial.
- (7) Any person required to register under this section who intentionally or knowingly fails to comply with any of the requirements of this section is guilty of a misdemeanor.”

SECTION 3. This Act shall apply to any sex offender:

- (1) Convicted of felony sexual assault on or after its effective date;
- (2) Released from a jail, prison, hospital, school, or other institution to which the sex offender had been committed pursuant to a conviction for a felony sexual assault which release was on or after its effective date;
- (3) Convicted of felony sexual assault within ten years prior to its effective date; or
- (4) Released from a jail, prison, hospital, school, or other institution to which the sex offender had been committed pursuant to a conviction for a felony sexual assault whose release was within ten years prior to its effective date.

No person to whom this Act applies shall be convicted of a misdemeanor under this Act for failure to register prior to January 1, 1996.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 161

S.B. NO. 937

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that ongoing debate over whether the University of Hawaii should be given the authority to directly control income generated from tuition and other charges assessed against students raises certain policy issues regarding who should have control over the disposition of tuition income as well as who should be setting tuition rates and at what levels. Over the past decade, the legislature has provided the University of Hawaii with increasing administrative and budget flexibility with the intent that the university should be more directly involved in determining how revenues are expended. The legislature further finds that concomitant with this policy discussion about tuition levels and raising additional income, is the consideration that the University of Hawaii is a state-created and supported institution which must ensure equal access for students who may need financial support in order to gain a college education. Thus, the legislature believes that it is necessary to ensure that the State's higher education policy maintains a balance between providing increasing fiscal autonomy to the university with providing equal access to financially needy students. In order to maintain this balance, the legislature will continue its commitment to providing flexibility and autonomy to the university.

The purpose of this Act is to provide authority to the board of regents to establish the mechanisms by which the University of Hawaii can begin to adopt an integrated plan for the development of the university's programs with the generation of income.

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§304- Benchmarks.** (a) The board of regents shall adopt benchmarks to expand and develop the University of Hawaii to become a statewide campus that provides Hawaii with a higher education system designed to meet the future needs and demands of the citizens of the State, and to capitalize on the university's unique resources and location to become an international educational, research, and service center known both in the United States and throughout the Pacific/Asian countries. The benchmarks shall include but not be limited to:

- (1) Expanding access to educational opportunity throughout the State;
- (2) Striving for excellence in undergraduate education;
- (3) Requiring the university to continue to gain prominence in research and distance learning;
- (4) Revitalizing services to the State;
- (5) Enhancing the international role of the university; and
- (6) Maintaining diversity by clarifying campus missions and coordinating campus plans.

(b) Beginning with the 1997-1998 fiscal year, the board of regents shall apply these benchmarks in the development of their annual budget request to the legislature and adoption of tuition schedules.

(c) The University of Hawaii shall conduct a periodic review of all instruction, organized research, public service, academic support, student services, and institutional support programs at each campus to determine whether the programs are operating for the purposes originally established and not inconsistent with the benchmarks adopted pursuant to subsection (a). The university shall submit a report

of its findings to the legislature no later than twenty days prior to the convening of the legislature in the second year of each fiscal biennium.”

SECTION 3. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§304- University of Hawaii tuition and fees special fund; tuition schedule and waivers.** (a) There is established the University of Hawaii tuition and fees special fund into which shall be deposited all revenue collected by the university for regular credit tuition and tuition related course and fee charges, except as provided by law. Moneys deposited into the fund shall be expended to maintain or improve the university’s programs and operations and shall not be:

- (1) Used as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction;
- (2) Transferred unless otherwise authorized by the legislature; and
- (3) Restricted by the governor or the director of finance without the prior approval of the legislature.

Any rule, policy, or action of any agency or individual in contravention of this subsection shall be void as against public policy.

(b) Notwithstanding section 304-4, resident undergraduate tuition shall not exceed thirty per cent of the estimated average annual cost of education; provided that the tuition for any apprenticeship training program at the community colleges shall be at least 30 cents per clock hour.

For the purposes of this subsection, the “estimated average annual cost of education”, as formulated by the university, shall include, but not be limited to, all instructional costs, all student service costs, and a pro rata share of institutional support, academic support, and fringe benefits.

(c) The board of regents, or its designated representatives, is authorized to grant, modify, or suspend tuition waivers. The board of regents shall provide a report and make recommendations as appropriate to the legislature on all tuition waivers no later than twenty days prior to the convening of each regular session.”

SECTION 4. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§304- Budget appropriations; University of Hawaii.** (a) Beginning in fiscal year 1997-1998, and every year thereafter, the legislature shall formulate general fund budget appropriations for the University of Hawaii by combining:

- (1) A base figure representing all operating general fund amounts appropriated to the University of Hawaii for fiscal year 1994-1995; and
- (2) All costs borne by the University of Hawaii for:
  - (A) All collective bargaining agreements entered into after fiscal year 1995-1996;
  - (B) Any new program or expansion of an existing program mandated by the legislature;
  - (C) Tuition waivers mandated by the legislature;
  - (D) Increases in enrollment; and
  - (E) Adjustments for inflation.

(b) No revenue received by the University of Hawaii pursuant to the University of Hawaii tuition and fees special fund established under section 304- may be used by the governor or the director of finance as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction.”

SECTION 5. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school fund under section 298-3.5;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund;
- (6) Special fund established by section 206E-6;
- [(7)] Housing loan program revenue bond special fund, housing project bond special fund;
- [(8)] Aloha Tower fund created by section 206J-17; [and]
- [(9)] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
- (10) The University of Hawaii tuition and fees special fund;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 6. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“§36-30 Special fund reimbursements for departmental administrative expenses.**<sup>1</sup> (a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special summer school fund under section 298-3.5;
- (3) School cafeteria special funds of the community colleges, and the department of education;
- (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special fund established by section 206E-6;
- [(7)] Aloha Tower fund created by section 206J-17; [and]
- [(8)] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
- (9) The University of Hawaii tuition and fees special fund;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 7. Section 37-74, Hawaii Revised Statutes, is amended to read as follows:

**“§37-74 Program execution.** (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering state programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

(1) Review each operations plan to determine:

(A) That it is consistent with the policy decisions of the governor and appropriations by the legislature;

(B) That it reflects proper planning and efficient management methods; and

(C) That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, and the status of revenues to support operations plans for all state programs;

(2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part; and

(3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that the expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels; provided that the planned expenditures for the University of Hawaii may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

(1) Authorized transfers or changes, when made, shall be reported to the legislature;

(2) The University of Hawaii shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and

(3) The university shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.



[(e) The University of Hawaii shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor.]”

SECTION 8. Section 304-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus.

The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities. [However, each fee shall be the same for resident and nonresident students.] The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The nonresident tuition and fee differential shall not be applicable to:

- (1) East-West Center student grantees pursuing baccalaureate or advanced degrees;
- (2) United States military personnel stationed in Hawaii on active duty, and their authorized dependents during the period that the personnel are stationed in the State;
- (3) Hawaiians, as defined in section [304-14.9,] 10-2, residing outside of Hawaii;
- (4) Students from any Pacific island or Asian district, commonwealth, territory, or insular jurisdiction, state, or nation that does not provide public institutions of higher learning; and
- (5) Employees of the university, their spouses, and dependents.

The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition and fee differential. The board may waive the nonresident tuition and fee differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State.”

SECTION 9. Section 304-8, Hawaii Revised Statutes, is amended to read as follows:

“**§304-8 Appropriations; accounts; reports.** (a) Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 304-4 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or on behalf of the board of the university shall be deposited with the director of finance, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received and except that with the concurrence of the director of finance, moneys received from the federal government for research, training, and other related purposes of a transitory nature and moneys in trust or

revolving funds administered by the university may be deposited in depositories other than the state treasury. [Income] Beginning with the 1995-1996 fiscal year, all income from [fees for] regular credit tuition and [similar] tuition related course and fee charges against students [and income] shall be deposited to the credit of the student tuition and fees special fund pursuant to section 304- ; provided that such income collected during the 1994-1995 fiscal year credited to the 1995-1996 academic year shall be deposited into the fund. Income derived from sale of goods or services shall be deposited to the credit of the general fund of the State; provided that income from university projects as defined and described in sections 306-1 to 306-12, may be credited to special or other funds; provided further that in each fiscal year from [1990-1991 through 1999-2000,] 1997-1998 through 2001-2002, at least the first \$1,000,000 of tuition collected by the university shall be deposited in the state treasury to the credit of the Hawaii opportunity program in education special fund. The university shall also actively seek private participation in the Hawaii opportunity program in education program.

(b) The university shall annually provide the legislature at least twenty days prior to the convening of the regular session with an itemized account of the income to and the expenditure from each university special and revolving fund during the previous fiscal year.”

SECTION 10. Section 304-14, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 304-14.5, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 304-14.6, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 304-14.7, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 304-14.8, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 304-14.9, Hawaii Revised Statutes, is repealed.

SECTION 16. On July 3, 1995, \$5,000,000 shall be transferred from the Hawaii opportunity program in education special fund to the University of Hawaii student tuition and fees special fund.

SECTION 17. Notwithstanding applicable tuition charges, for the fiscal biennium 1995-1997, the board of regents of the University of Hawaii shall assess a nonresident fee of \$65 per student at the University of Hawaii, Manoa campus, and \$25 for all other university campuses. The fee shall be assessed each semester.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 19. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

#### Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

## ACT 162

S.B. NO. 1204

A Bill for an Act Relating to Environmental Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is necessary to restore the position of deputy director for environmental health within the department of health. At the close of the 1994 legislative session, Act 223 was passed as part of an overall attempt to reduce the size of government by eliminating various positions in the executive branch. Eliminating the position of deputy director for environmental health was based on other legislation that would create a separate department of environment which would oversee the operations of the director for environmental health.

Unfortunately the legislation to create a department of environment did not pass, and the environmental programs remain within the department of health. The environmental protection programs are crucial, and without a deputy director it is impossible to manage and supervise the various programs. While the position was deleted effective January 1, 1995, it is nonetheless funded through the fiscal year ending June 30, 1995.

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court, one additional law clerk for the civil administrative judge of the circuit court of the first circuit, one additional law clerk for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the family court administrative judge of the family court of the fifth circuit, one additional law clerk for the civil motions judge of the circuit court of the first circuit, one additional law clerk for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other func-

- tions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; three additional deputies in the department of health, each in charge of one of the following: [administration,] environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that not more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
  - (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
  - (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
  - (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
  - (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-8.9, Hawaii Revised Statutes, is amended to read as follows:

**“§304-8.9 [Systemwide computer services special fund for the University of Hawaii systemwide consortium.]** (a) There is established a special fund to receive, deposit, disburse, and account for revenues and expenditures of the university's single computer system (VAX system). Revenues collected from members of the University of Hawaii systemwide consortium shall be deposited in this fund and expenditures made shall be in support of computer services, including personnel, current expense, and equipment costs.

(b) All moneys, user fees, and other revenues collected by the university for providing computer services to users who are not members of the consortium under subsection (a) shall be deposited to the credit of the state general fund.

(c) All moneys for the operation of the University of Hawaii systemwide computing center to provide computer services for nonconsortium projects of the university, the State, the federal government, and other outside users shall be allocated by the legislature through appropriations out of the state general fund.

(d) The university shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to carry out the purposes of subsection (b).] **Systemwide information technology and services special fund.** There is established a special fund to be known as the systemwide information technology and services special fund, from which all moneys shall be used in support of systemwide information technology and services including personnel, equipment costs, and other expenses, as well as, planning, design, and implementation of information technology infrastructure within the university. All moneys for the fund shall be provided from revenues collected from users of information technology and services and any information technology user fee established pursuant to section 304-4.”

SECTION 2. Section 304-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus.

The board may also charge other fees for special programs of instruction, as well as laboratory fees [or], course fees [or], fees for student activities[.], and an information technology user fee. However, each fee shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The nonresident tuition differential shall not be applicable to:

- (1) East-West Center student grantees pursuing baccalaureate or advanced degrees;
- (2) United States military personnel stationed in Hawaii on active duty, and their authorized dependents during the period that the personnel are stationed in the State;

- (3) Hawaiians, as defined in section 304-14.9, residing outside of Hawaii;
- (4) Students from any Pacific island or Asian district, commonwealth, territory, or insular jurisdiction, state, or nation that does not provide public institutions of higher learning; and
- (5) Employees of the university, their spouses, and dependents.

The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential. The board may waive the nonresident tuition differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 164

S.B. NO. 1559

A Bill for an Act Relating to Motor Vehicle Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any tax imposed by sections 249-1 to 249-13 for any year and not paid when due, shall become delinquent and a penalty shall be added to, and become part of, the delinquent tax. The amount of the delinquency penalty shall be established by the county’s legislative body. If the date that the tax is due is a Saturday, Sunday, or legal holiday, the tax shall become delinquent at the end of the next day that is not a Saturday, Sunday, or legal holiday. The director of finance may require the payment of any delinquent tax and penalty as a condition precedent to the registration, renewal, or transfer of ownership of such vehicle. Any vehicle not having the number plates required by sections 249-1 to 249-13, or any vehicle upon which taxes are delinquent as provided in this section, may be seized, wherever found, by the director of finance or by any police officer, and held for a period of ten days, during which time the vehicle shall be subject to redemption by its owner by payment of the taxes due, together with the delinquent penalties and the cost of storage and other charges incident to the seizure of the vehicle. The director of finance, chief of police, or any police officer shall be deemed to have seized and taken possession of any vehicle, after having securely sealed it where located and posted a notice upon the vehicle, setting forth the fact that it has been seized for taxes and warning all other persons from molesting it under penalty provided by section 249-11.”

SECTION 2. Section 286-42, Hawaii Revised Statutes, is amended to read as follows:

“**§286-42 County finance director’s duties.** (a) The county director of finance shall examine and to the best of the director’s ability determine the genuine-

ness and regularity of every registration and transfer of registration of a vehicle as in this part provided, in order that every certificate issued for a vehicle shall contain true statements of the ownership thereof, and to prevent the registration of a vehicle by any person not entitled thereto, and the director of finance may require any applicant to furnish such information, in addition to that contained in the application, as may be necessary to satisfy the director of finance of the truth and regularity of the application. The director of finance may accept any county certificate of title issued for a vehicle as prima facie evidence of ownership for registration and transfer of registration.

(b) For the purpose of registering standard makes and body types of new passenger motor vehicles the director of finance may accept the certificate of any licensed motor vehicle dealer certifying to the weight and identification of such vehicle. The director of finance of any county may accept the certificate of the director of finance of any other county as to weight and identification of any such vehicle.

(c) The director of finance may enter into a contract with new car dealerships for the registration of new motor vehicles consistent with any statute, ordinance, or provision of any applicable collective bargaining agreement. The director of finance may adopt rules pursuant to chapter 91 as may be necessary for the application, bonding, and procedural requirements of such contractor.

[(c)] (d) In the event the director of finance is not satisfied as to the ownership of any vehicle sought to be registered, unless the applicant presents satisfactory evidence to the director of finance of the applicant's ownership of the vehicle and as to any liens thereon, the director of finance may accept from the applicant a bond in such form as may be determined by the director of finance in an amount equal to the retail value of the vehicle. The bond and the deposit thereof shall be conditioned to protect the director of finance and any subsequent purchaser of the vehicle or person acquiring any lien thereon or the successor in interest of any such person against any loss or damage on account of any defect in or undisclosed encumbrance upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person shall have a right of action to recover on any such bond for any breach of the conditions for which the same was deposited. The aggregate liability of the surety to all such persons shall in no event exceed the amount of the bond and interest thereon, plus a reasonable attorney's fee to be allowed by the court incurred to procure the recovery under the bond. The bond shall (unless suit has been instituted thereon) be returned and surrendered at the end of three years.

[(d)] (e) The county finance director, upon being notified by the designated county department that a vehicle has been inspected and approved as a reconstructed vehicle, shall cause that fact to be shown upon the registration and title certificates for that vehicle."

SECTION 3. Section 286-46, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) With the exception of delinquent taxes and penalties imposed by section 249-10, the record shall show the year, month, day, hour, and minute at which the notice has been filed with the director of finance, shall show the nature and kind of lien or encumbrance claimed, the amount of tax or other claim, with interest, penalties, and costs, and shall identify the registered motor vehicles affected by the lien or encumbrance, and shall contain such further information as the director of finance may require. The record shall be a public record and may be arranged in such manner as the director of finance determines.

The interest of the owner or the legal owner in the motor vehicle shall not be deemed to be affected until the notice referred to in [paragraphs] subsection (a) (1) to



(5) has been filed with the director of finance in such form as the director of finance shall prescribe for entry in the tax lien and encumbrance record; provided the director of finance may require the payment of delinquent taxes and penalties as a condition precedent to the vehicle's renewal, registration, or transfer of ownership. The director of finance shall charge a fee of [50 cents] \$5 for each entry made in the tax lien and encumbrance record, which shall be deposited in the general fund; provided that the fee shall not be charged for entries filed by or on behalf of the United States of America or its wholly owned agencies or instrumentalities, the State of Hawaii, or any county, or wholly owned agencies or instrumentalities of the State or any county].

Nothing in this section shall be deemed to alter or amend any statute relating to tax liens or the enforcement thereof."

SECTION 4. Section 286-52, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) Within thirty calendar days thereafter, the transferee shall forward both the certificate of ownership so endorsed [and the current certificate of registration] to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$50, in addition to the fee provided in section 286-51, for a new certificate of ownership."

2. By amending subsection (c) to read:

"(c) Subsection (b), requiring a transferee to forward the certificate of ownership after endorsement [and the certificate of registration] to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee, upon transferring the transferee's interest or title to another, shall give notice of the transfer to the director of finance and endorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that if the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations."

3. By amending subsection (d) to read:

"(d) The director of finance, upon receipt of the certificate of ownership properly endorsed [and the certificate of registration of the vehicle], shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration."

4. By amending subsection (l) to read:

"(l) A licensed dealer who has forwarded a properly endorsed certificate of ownership [and certificate of registration] to the director of finance shall be relieved of any civil liability, from the date the transferor delivers the motor vehicle into the transferee's possession, which the transferor might otherwise subsequently incur by

reason solely of being the registered owner of the vehicle; provided that a specific written authorization to forward the certificates has been obtained from the transferee.”

SECTION 5. Section 249-3, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 249-3.5, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 249-5, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 165**

S.B. NO. 1642

A Bill for an Act Relating to Boating.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 200, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . ALCOHOL AND BOATING SAFETY**

**§200- Operating a vessel under influence of intoxicating liquor.** (a) This part applies only to recreational vessels in the waters of the State. The operation of a nonrecreational vessel in the waters of the State while under the influence of intoxicating liquor is governed by 33 C.F.R. part 95.

(b) A person commits the offense of operating a vessel underway under the influence of intoxicating liquor if:

- (1) The person operates or assumes actual physical control of a vessel underway while under the influence of intoxicating liquor in an amount sufficient to impair the person’s normal mental faculties or ability to care for oneself and guard against casualty;
- (2) The person operates or assumes actual physical control of a vessel underway with .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or .08 or more grams of alcohol per two hundred ten liters of breath.

For the purposes of this part, a person is considered to be operating a vessel underway when the person has an essential role in the operation of a vessel underway.

(c) A person committing the offense of operating a vessel underway under the influence of intoxicating liquor shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section, by:

- (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court;
- (B) Ninety-day prompt suspension of the privilege of operating any vessel in the waters of the State with absolute prohibition from operating any vessel during suspension of such privilege; and
- (C) Any one or more of the following:
  - (i) Seventy-two hours of community service work;
  - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
  - (iii) A fine of not less than \$150 but not more than \$1,000;
- (2) For an offense which occurs within five years of a prior conviction under this section:
  - (A) One year prompt suspension of the privilege of operating any vessel underway in the waters of the State with absolute prohibition from operating a vessel underway during the suspension of such privilege;
  - (B) Any one or more of the following:
    - (i) Not less than eighty hours of community service work; or
    - (ii) Not less than forty-eight consecutive hours but not more than sixty days of imprisonment of which at least forty-eight hours shall be served consecutively; and
  - (C) A fine of not less than \$500 but not more than \$1,000;
- (3) For an offense which occurs within five years of two prior convictions under this section, by:
  - (A) A fine of not less than \$500 but not more than \$1,000;
  - (B) Suspension of privilege of operating a vessel underway in the waters of the State for a period not less than one year but not more than five years; and
  - (C) Not less than ten days but not more than one-hundred-eighty days imprisonment of which at least forty-eight hours shall be served consecutively.

(d) Whenever a court sentences a person pursuant to subsection (c)(2) or (3), the court shall also require that the offender be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the offender's alcohol dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the offender to obtain appropriate treatment, if the counselor's assessment establishes the offender's alcohol abuse or dependence.

All costs for such assessment or treatment, or both, shall be borne by the offender.

(e) Any person sentenced under this part may be ordered to make restitution to the county for the actual cost incurred in conducting any blood tests under section 200- . The court may order the person to make restitution in a lump sum, or in a series of prorated installments, to the police department, or other agency incurring the expense of the blood test.

**§200- Operating a vessel after privilege suspended for operating a vessel under the influence of intoxicating liquor; penalties.** No person whose privilege to operate a vessel in the waters of the State has been suspended pursuant to section 200- or 200- shall operate a vessel underway in the waters of this State while that privilege remains suspended. Any person convicted of violating this section shall be:

- (1) Sentenced to a term of imprisonment of at least three consecutive days but not more than thirty days;
- (2) Fined not less than \$250 but not more than \$1,000;

and that person's privilege to operate a vessel shall be suspended for an additional period of one year. The court for good cause may extend imprisonment from thirty days up to sixty days. The period of suspension shall commence upon the release of the person from the period of imprisonment imposed pursuant to this section.

**§200- Records of convictions and suspensions of operating privileges to be maintained.** The department shall maintain a record of all persons convicted of offenses and the period of suspension of operator privileges ordered by the court under this part.

**§200- Evidence of intoxication.** In any criminal prosecution for a violation of section 200- , the presence of .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of the defendant's blood or .08 or more grams of alcohol per two hundred ten liters of the defendant's breath within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall create a presumption that the defendant was under the influence of intoxicating liquor at the time of the alleged violation.

**§200- Implied consent of operator of vessel to submit to testing to determine alcoholic content of blood.** (a) Any person who operates a vessel that is motorized or is greater than eight feet in length or both and is underway in the waters of the State shall be deemed to have given consent, subject to this part, to a test approved by the director of health of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood.

(b) The test or tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person operating a vessel underway in state waters is under the influence of intoxicating liquor only after:

- (1) A lawful arrest; and
- (2) The person has been informed by a law enforcement officer of the sanctions of sections 200- and 200- .

(c) If there are reasonable grounds to believe that a person is in violation of section 200- , then such person shall have the option to take a breath or blood test, or both, for the purpose of determining the alcoholic content of that person's blood.

**§200- Persons qualified to take blood specimen.** No person, other than a physician, registered nurse, or person licensed in a clinical laboratory occupation under section 321-13, may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath specimen.

**§200- Additional tests.** The person tested may have any physician, registered nurse, or person licensed in a clinical laboratory occupation under section 321-13 of the person's own choosing withdraw blood and any person of the person's own choosing administer a test or tests in addition to any administered at the direction of a law enforcement officer. The result of the test or tests may be used as provided in section 200- . The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to that person.

**§200- Consent of person incapable of refusal not withdrawn.** The consent of a person deemed to have given consent pursuant to section 200- shall not be withdrawn by reason of the person being dead, unconsciousness, or being in any other state which renders the person incapable of consenting to examination, and the test may be given. In such event, a test of the person's blood shall be administered.

**§200- Suspension of privilege to operate a vessel underway upon refusal to submit to testing.** (a) If a person under arrest refuses to submit to a breath or blood test, none shall be given, except as provided in section 200- , but the arresting officer, as soon as practicable, shall submit an affidavit to a district judge of the circuit in which the arrest was made, stating:

- (1) That at the time of the arrest, the arresting officer had reasonable grounds to believe the arrested person had been operating a vessel underway on state waters while under the influence of intoxicating liquor;
- (2) That the arrested person had been informed of the sanctions of this section; and
- (3) That the person had refused to submit to a breath or blood test.

(b) Upon receipt of the affidavit, the district judge shall hold a hearing as provided in section 200- , and shall determine whether the statements contained in the affidavit are true and correct. If the district judge finds the statements contained in the affidavit are true, the judge shall suspend the arrested person's operating privilege as follows:

- (1) For a first suspension, or any suspension not preceded within a five-year period by a suspension under this section, for a period of twelve months; and
- (2) For any subsequent suspension under this section, for a period not less than two years and not more than five years.

(c) Whenever a court penalizes a person under this section, it shall also require that the person be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the person's alcohol dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the person to obtain appropriate treatment. All costs for such assessment or treatment, or both, shall be borne by the penalized person.

(d) The penalties provided by this section are additional penalties and not substitutes for other penalties provided by law.

**§200- Hearing before a district judge.** A hearing to determine the truth and correctness of an affidavit submitted to a district judge shall be held within twenty days after the district judge has received the affidavit.

The district judge shall hear and determine:

- (1) Whether the arresting officer had reasonable grounds to believe that the person had been operating a vessel underway in the waters of this State while under the influence of intoxicating liquor;
- (2) Whether the person was lawfully arrested;
- (3) Whether the arresting officer had informed the person of the sanctions of sections 200- and 200- ; and
- (4) Whether the person refused to submit to a test of the person's breath or blood.

**§200- Appeal to supreme court.** An order of a district court issued under section 200- may be appealed to the supreme court.

**§200- Interpretation of the tests.** For the purposes of this part and to the fullest extent possible, the interpretation of the testing to determine alcoholic content of blood shall be as provided in section 200-

**§200- Proof of refusal; admissibility.** If a legally arrested person refuses to submit to a test of the person's breath or blood, proof of refusal shall be admissible only in a hearing under section 200- and shall not be admissible in any other action or proceeding, whether civil or criminal.

**§200- Other evidence not excluded.** This part shall not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor, including but not limited to personal observation by a law enforcement officer of the defendant's manner, disposition, speech, muscular movement, general appearance, or behavior.

**§200- Test results to be collected.** (a) The results of any test for alcohol content made upon any person shall be sent to the chairperson who shall compile the data without revealing the identity of any individual tested. These data may be available only to such other government agencies as the chairperson deems necessary and advisable.

(b) The results of any test for alcohol content made upon any person who has been fatally injured in a boating accident or upon the operator of a vessel underway involved in an accident which resulted in another person's death, shall be used only in accordance with section 200-29 or in the criminal prosecution of section 200- or 200-

**§200- Applicable scope of part.** Nothing in this part shall be construed to prevent the police from obtaining a sample of breath or blood as evidence of intoxication from the operator of any recreational vessel involved in an accident resulting in injury to or death of any person."

SECTION 2. Section 200-23, Hawaii Revised Statutes, is amended by adding four<sup>1</sup> new definitions to be appropriately inserted and to read as follows:

"C.F.R." means the Code of Federal Regulations.  
"Recreational vessel" means any vessel that is being used for pleasure.  
"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground."

SECTION 3. Section 200-23, Hawaii Revised Statutes, is amended by amending the definition of "boating accident" to read:

"Boating accident" means any occurrence involving a vessel or its equipment that results in:

- (1) The death of a person;
- (2) The loss of consciousness by any person, the receipt of medical treatment by any person, or the incapacity of any person for more than twenty-four hours;
- (3) Damage to the vessel and other property totalling more than \$200; or
- (4) The disappearance of a person from the vessel under circumstances that indicate possible death or injury."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

Note

1. So in original.

ACT 166

S.B. NO. 1683

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

**“§346-53 Determination of amount of assistance.** (a) This subsection does not apply to general assistance. The standard of need for families of given sizes shall equal the poverty level established by the federal government in 1993, pro-rated over a twelve-month period.

[(b)] The assistance allowance provided shall be based on a percentage of the standard of need. The assistance allowance shall be set at sixty-two and one-half per cent of the standard of need. The standard of need shall be determined by dividing the 1993 federal poverty level by twelve and rounding down the quotient. The remaining quotient shall be multiplied by sixty-two and one-half per cent and the final product shall be rounded down to determine the assistance allowance.

(b) The director shall determine the allowance for general assistance based upon the total amount appropriated for general assistance, among other relevant factors.

(c) The director, pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible either for Federal Supplemental Security Income, or public assistance in accordance with state standards, or both. The director shall provide for level of care increases effective July 1, 1989, as follows:

- (1) For those adult residential care homes classified as facility type I: not less than \$70 for level of care (LOC) I; not less than \$105 for LOC II; and not less than \$145 for LOC III; and
- (2) For those adult residential care homes classified as facility type II: not less than \$124 for LOC I; not less than \$105 for LOC II; and not less than \$145 for LOC III.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that:

- (1) Notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; and
- (2) If the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

(d) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental deposit, utility deposit, or both, may be granted.

(e) Any recipient may petition the department for additional assistance when the recipient's need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance.

(f) The department shall include protective child care payment as a special needs item in the financial assistance standard for cases of child neglect or abuse requiring placement of a child in child care. The referral for protective child care payment shall be from the department's child welfare program and the rate of payment shall be set by the department.

(g) Notwithstanding any other law to the contrary, the director, subject to the availability of funds, shall develop and implement rules adopted pursuant to chapter 91 that allow the department to subtract income from the standard of need. The department may ratably reduce the difference between countable income and the standard of need to determine the assistance allowance.

(h) The director shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 2. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

**"§346-71 General assistance.** (a) The department of human services [shall] is authorized to administer and provide public assistance to eligible persons who are disabled, [or are at least fifty-five years of age], or whose primary diagnosis is substance abuse, or have dependent children in the home not otherwise provided for under this chapter[.] and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons have first been determined ineligible for a comparable federally funded financial assistance program, are bona fide residents of this State, and have furnished to the department a social security account number for each member of the assistance unit or verification that an application was made with the Social Security Administration for a social security account number for each member of the assistance unit. In family groups in



which there are children, income and resources of both parents, natural or adoptive, shall be considered available for each other and the support of their children.

Persons who meet the categorical criteria for eligibility, but fail to satisfy income and resource criteria adopted by the department for eligibility under the comparable federally funded financial assistance program shall not be eligible for general assistance. The failure of any adult member of the assistance unit to comply with the requirements or conditions of general assistance shall exclude the entire assistance unit from receiving financial assistance. However, when the adult member is disqualified for not meeting the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred. "Assistance unit" as the term is used herein means persons whose needs, income, and assets are considered in the financial assistance payment and their dependents.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of human services shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction.

(b) A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance[,] for not more than one year, if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules [of the department;] adopted under subsection (g);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified physical or mental impairment. A determination and certification of physical impairment shall only be made by a licensed physician. A determination and certification of mental impairment shall be made by a licensed physician whose specialty is in psychiatry or by a licensed psychologist. The department may require that such determination and certification be by a psychiatrist or a psychologist designated and paid by the department. [The department shall accept applications from psychiatrists and psychologists to conduct the examination for mental impairment. Psychiatrists and psychologists shall be assigned cases on a rotating basis.]
- (B) When a determination of mental impairment is made, the person shall [enter into out-patient treatment with the psychiatrist, psychologist, or mental health clinic of the person's choice. The professional who made the determination of mental impairment shall be ineligible to provide the treatment or care. In exceptional situations where professionals are in short supply, such as in rural areas, the professional shall be allowed to determine, certify, and provide on-going treatment or care.] accept and pursue medical treatment. The out-patient treatment shall include a medical evaluation to eliminate the possibility that the mental impairment is due to a physical illness.

(C) When a determination of physical impairment is made, the person shall accept and pursue medical treatment.

[(C)] (D) Any person, to continue to be certified as mentally or physically impaired, shall be reevaluated annually as provided by this section and more frequently as required by the department.

“Substantial” as the term is used herein means at least thirty hours of work per week. “Disabled” as the term is used herein means disability which extends for a period of over thirty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

The one year eligibility under this subsection may be extended by the department pending determination of eligibility for the Federal Supplemental Security Income Program or its successor agency.

(c) A person with dependent children in the home shall be eligible for general assistance if the person:

(1) Is determined to be eligible in accordance with rules adopted under subsection (g);

[(1)] (2) Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; and

[(2)] (3) Is actively and diligently seeking gainful employment; and

[(3)] (4) Has not refused to accept employment when offered; and

[(4)] (5) Has registered and is available for work as required by section 383-29; and

[(5)] (6) (A) Has exhausted all of the person’s benefits under chapter 383; provided that if the benefits of any person under chapter 383 be less than those for which the person would be eligible under this section, the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or

[(6)] (B) Is employed but without sufficient income or other resources to provide sufficient support to maintain the person or those dependent upon the person consistent with the standards of this chapter.

“Children” as used in this section means persons who:

(1) Are ineligible for and are unable to obtain aid under a federal assistance program; and

(2) Are in need, and do not have sufficient income or other resources to provide health care and support to maintain a standard consistent with this chapter; and

(3) Have not attained the age of eighteen years; provided that a child between the ages of eighteen and nineteen years shall be eligible for assistance under this section, if the child is a full-time student enrolled in a public or private secondary school, or equivalent level of vocational or technical school; and further provided that the child is expect-

ted to complete the program of the secondary school or vocational or technical school before reaching age nineteen; and

- (4) Are living in a home with their father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, niece, or hanai parents in a place of residence maintained by such relative as the relative's own home.

A child for the purposes of this section does not include an unborn child or fetus.

[(d) A person who is at least fifty-five years of age shall be eligible for general assistance if the person:

- (1) Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; and
- (2) Is actively and diligently seeking gainful employment; and
- (3) Has not refused to accept employment when offered; and
- (4) Has registered and is available for work as required by section 383-29; and
- (5) Has exhausted all of the person's benefits under chapter 383; provided should the benefits of any person under chapter 383 be less than those for which the person would otherwise be eligible hereunder, the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- (6) Is employed but without sufficient income or other resources to provide sufficient support to maintain the assistance unit consistent with the standards of this chapter.]

(d) A person between the ages of eighteen and sixty-five years of age whose primary diagnosis is substance abuse shall be eligible for assistance for a period not to exceed six months if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection (g);
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified diagnosis of substance abuse. A determination of substance abuse shall only be made by a licensed physician or a licensed psychologist. The department may require that such determination and certification be by a physician or a psychologist designated and paid by the department;  
(B) When a determination of substance abuse is made, the person shall accept and pursue medical treatment;  
(C) Any person, to continue to be certified as a substance abuser, shall be reevaluated as provided by the department.

"Substantial" as the term is used in this subsection means at least thirty hours of work per week.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as

described in section 346-31, and in public employment projects as described in section 346-102.

(e) The department shall further require in addition to the conditions and requirements stated in subsections (c) and (d), that persons who are physically fit, able to work, and employable shall as a condition to receiving general assistance, register for work on public work projects and accept an assignment to work under section 346-31 or accept such employment as may be offered to them by the department under section 346-102 or by an employer. The term "public work projects" includes any kind of labor under the department of accounting and general services of the State or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.

(f) Applicants and recipients shall be required to satisfy all applicable provisions of this section. Recipients disqualified for failure to comply with any of the requirements under the provisions of this section shall be excluded from general assistance for a period not to exceed twelve months.

(g) [The] Within the limitations of this section, the department shall by rules adopted pursuant to chapter 91, [establish criteria and standards for the foregoing conditions and requirements.] determine:

- (1) The allowance for general assistance based upon the total amount appropriated for general assistance;
- (2) A method for determining assistance amounts; and
- (3) Other necessary provisions to implement general assistance."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

## ACT 167

S.B. NO. 1749

A Bill for an Act Relating to Exempt Employment Status.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 314-16, Hawaii Revised Statutes, is amended to read as follows:

“[[§314-16]] **Employment status.** [Except for the chief engineer and assistant chief engineer appointed by the executive director, all] All employees of the Hawaii public broadcasting authority shall be employed in their respective categories as follows:

- (1) Category (a) - clerical, nonprofessional, and nontechnical. All employees in this category shall be subject to chapters 76 and 77, provided that nonprofessional and nontechnical employees, except those in category (c) who were employed prior to July 1, 1973 shall receive appropriate civil service status without necessity of examination.

- (2) Category (b) - professional and technical. All employees in this category shall be exempt from chapters 76 and 77, provided that such exempt employment shall be subject to review by the director of human resources development on a periodic basis to determine the propriety of continued exemption. Whenever employees are to be hired in this category, they shall be subject to review and approval of the director of human resources development in accordance with procedures concerning exempt hiring.

If the director of human resources development determines that exempt status is not appropriate, such employees shall be subject to chapters 76 and 77, provided that such employees who were employed prior to July 1, 1973 and still so employed shall receive appropriate civil service status without necessity of examination.

All full time employees in this exempt category shall be hired on [annual] a contract not to exceed one year and shall be eligible for the state employees' retirement system and for other benefits generally applicable to officers and employees of the State. Contracts with such employees shall contain a clause providing for notification to the employee of renewal or nonrenewal [ninety] thirty days prior to the expiration of the contract. Nonrenewals of such contracts shall be subject to review by the board of public broadcasting.

- (3) Category (c) - student help. All employees in this category shall be exempt from chapters 76 and 77, provided that employment in this category shall be subject to review and approval by the director of human resources development."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

## ACT 168

S.B. NO. 1868

A Bill for an Act Relating to Recodification of the Education Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the purpose of public education is to educate the citizenry to function in a democracy. The legislature further finds that the shift from an agricultural society to an information-based society has caused us to review the structure and operations of our public school system. The statewide school system, which was established at the inception of statehood, is no longer the best model for our individual schools to meet the broad range of needs of their constituents—the students. Thus, the legislature has begun a process of systemic reform, a “top-down support for bottom-up reforms” to provide individual schools the autonomy to develop and implement alternative administrative and instructional frameworks.

Systemic reform means working with all schools in a systematic process which will result in restructuring our public schools and making fundamental changes in the way we educate our children. Systemic reform begins with the setting of state performance standards for all students and then requiring students to

demonstrate their mastery of the standards. The next step is to provide the necessary flexibility and autonomy to the individual schools to identify and implement the types of classroom experiences to ensure this degree of student mastery. The intent of this individual school approach is to put students first by not only giving the schools flexibility but also making them directly accountable for student achievement.

Education policy focused on putting students first creates an environment that supports restructured schools in reaching the following outcomes:

- (1) Authentic student achievement;
- (2) Equity;
- (3) Empowerment;
- (4) Communities of learning;
- (5) Reflective dialogue; and
- (6) Accountability.

Education policy should support actual or authentic student achievement not merely numbers from a test score. Education policy should promote equity and equal opportunity for all students in all schools. Education policy should facilitate establishment of school/community-based management and student-centered schools and thereby promote school autonomy and community involvement. Education policy should build communities of learning engaged in reflective dialogue about how to improve student achievement. Finally, education policy should require accountability so that communities of learning evaluate their efforts and report their results, with the end result being authentic student achievement.

Ongoing efforts during the past years to restructure the public education system have been focused on providing more autonomy and flexibility to the individual schools. While the thrust has been to facilitate systemic change, this task has involved making various piecemeal changes to education statutes which have not been fully integrated. Thus, the legislature believes that there is a need to reorganize the education statutes to integrate recent education policy changes and thereby more clearly communicate the intent and import of systemic reforms.

The purpose of this Act is to establish the mechanisms to study and create a new education title in the Hawaii Revised Statutes which clearly expresses legislative intent and recodifies the education statutes to reflect recent systemic reforms.

**SECTION 2.** There is established an education statutory revision interim study group to be co-chaired by the chairpersons of the senate committee on education and the house of representatives committee on education. The interim study group shall be convened to identify and submit to the 1996 legislature, guiding principles for statewide education policy which can be adopted and used to evaluate future education legislation.

The study group members shall be appointed jointly by the president of the senate and the speaker of the house of representatives from a list of nominees submitted by the chair of the senate committee on education and the chair of the house of representatives committee on education. The group shall reflect the constituency of the school community and shall be composed of the following:

- (1) Two community members active in systemic reform;
- (2) Two parents;
- (3) One principal;
- (4) One teacher;
- (5) One student;
- (6) The superintendent of education or the superintendent's representative; and
- (7) The chairperson of the board of education or the chairperson's representative.

The members of the interim study group shall be appointed no later than thirty days after the effective date of this Act. The members shall serve without compensation. The co-chairs may request the assistance of educational consultants and legislative staff support as necessary.

The interim study group shall submit a report of its findings and recommendations to the speaker of the house of representatives and the president of the senate.

SECTION 3. The legislative reference bureau is requested to apply the following organizational framework to title 18, Hawaii Revised Statutes, including chapters 296, 296C, 296D, 297, 298, 299, 300, and 301, Hawaii Revised Statutes, to identify statutes which should be consolidated, amended, or repealed to conform with recent education policy initiatives for the purposes of recodification of the education statutes. The suggested organizational framework includes:

- (1) Part I. Findings and purpose
- (2) Part II. Provisions affecting students
  - Subpart A. Student performance standards
  - Subpart B. Curriculum and instruction
  - Subpart C. Supplementary programs
- (3) Part III. Provisions affecting school personnel
  - Subpart A. Employment conditions and compensation
  - Subpart B. Staff development and incentives
- (4) Part IV. Provisions affecting system structure
  - Subpart A. Accountability
  - Subpart B. Organization
- (5) Part V. Provisions affecting financial structure
  - Subpart A. Budget
  - Subpart B. Federal funding
- (6) Part VI. Provisions affecting facilities
  - Subpart A. Facilities and equipment

The interim study group, with the technical assistance of the legislative reference bureau, may create such further subdivisions as are deemed necessary for clarity and conformance with proper statutory construction.

The legislative reference bureau shall submit a report of its findings and recommendations along with proposed legislation twenty days prior to the convening of the 1996 regular session, to the co-chairs of the education statutory revision interim study group established in section 2 of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 169

H.B. NO. 87

A Bill for an Act Relating to the Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-172, Hawaii Revised Statutes, is amended to read as follows:

**“§291C-172 Refusal to provide identification.** [Any] (a) Except as provided in subsection (b), any person detained for a violation of this chapter shall provide the person's name and address, or any proof thereof, or both, upon the

lawful order or direction of any police officer in the course and scope of the officer's duties pursuant to this chapter.

(b) A pedestrian who is detained for violating part VII of this chapter shall provide the person's name and address upon the lawful order or direction of a police officer in the course and scope of the officer's duties. If the officer has reasonable grounds to believe that the person is being deceptive or misleading in providing the person's name and address, the person shall provide such proof thereof, upon the lawful order or direction of the police officer."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 170

H.B. NO. 149

A Bill for an Act Relating to Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purposes of this Act are to require the department of public safety to implement all elements of a model system for managing its security staff, to improve management of correctional industries employees, and to provide the department greater flexibility with regard to the transfer of inmates out-of-state and the development of out-of-state Hawaii correctional facilities.

SECTION 2. The department shall mount a continuing and broad effort to implement all elements of a security management model. In doing so, the department shall:

- (1) Develop formal policies and procedures;
- (2) Carefully evaluate each post and position at correctional facilities for both need and priority;
- (3) Conduct an overall review of institutional post orders;
- (4) Take steps to assure that leave schedules are followed to the extent practicable;
- (5) Develop a system for monitoring and auditing security staffing performance; and
- (6) Develop a system to manage overtime problems, including improper, inconsistent, and inaccurate recording of sick leave, at correctional facilities.

SECTION 3. Chapter 354D, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§354D- Annual report.** The department shall submit to the legislature an annual report at least twenty days prior to the convening of each regular session which shall include:

- (1) A listing by position number and title of all positions established under section 354D-3;
- (2) The salaries paid to the employees in these positions;
- (3) A description of the duties and responsibilities of each employee; and



- (4) The usual work site of each employee.”

SECTION 4. Section 353-16.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director may effect the transfer of a committed felon to any correctional institution located in another state regardless of whether the state is a member of the Western Interstate Corrections Compact; provided that the institution is in compliance with the standards of the American Correctional Association, and operated either by that state or by a private institution; and provided further that the transfer is either:

- (1) In the interest of the security [or good], management [of the state correctional facility where the inmate is presently placed;], or the reduction of prison overcrowding; or
- (2) In the interest of the inmate.

All transfers authorized pursuant to this subsection shall be in accordance with rules adopted by the director pursuant to chapter 91.”

SECTION 5. Section 353-16.3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§353-16.3] Transfer of inmates to] Development of out-of-state Hawaii correctional facilities.** [(a) The director may transfer any Hawaii inmate to any out-of-state correctional facility that:

- (1) Has been developed on land owned or leased by the State utilizing public funds; and
- (2) Is under the direct supervision of department personnel and meets department standards for Hawaii correctional facilities.

(b)] Notwithstanding any other provision to the contrary, the governor, with the assistance of the director, [is authorized to] may negotiate with any appropriate out-of-state jurisdiction for the development of Hawaii correctional facilities to [carry out the purpose of subsection (a);] reduce prison overcrowding; provided that any agreement negotiated pursuant to this [subsection] section shall be subject to legislative approval by concurrent resolution in any regular or special session.”

SECTION 6. Section 354D-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§354D-3]] Correctional industries program.** There is established a correctional industries program within the department of public safety, under the supervision of the director and other subordinates as the director shall designate. The administrator of the correctional industries program shall be appointed by the director of public safety, without regard to chapters 76 and 77. The director may appoint other employees necessary to carry out the function of this chapter without regard to chapters 76 and 77, provided that the number of temporary exempt positions covered under this section shall not exceed thirty in any fiscal year.”

SECTION 7. The department of public safety shall report to the legislature its progress in fulfilling the requirements of section 2 of this Act, twenty days before the convening of the 1996 and 1997 regular sessions.

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

## ACT 171

SECTION 9. No officer or employee having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 11. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 171

H.B. NO. 756

A Bill for an Act Relating to the Hawaii Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (6) to read as follows:

- “(6) The period of limitation does not run:
- (a) During any time when the accused is continuously absent from the State or has no reasonably ascertainable place of abode or work within the State, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; [or]
  - (b) During any time when a prosecution against the accused for the same conduct is pending in this State[.]; or
  - (c) For any felony offense under chapter 707, part V or VI, during any time when the victim is alive and under eighteen years of age.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 172

H.B. NO. 873

A Bill for an Act Relating to Disclosures in Real Estate Transactions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 508D-3, Hawaii Revised Statutes, is amended to read as follows:

“**[§508D-3]** **Exemptions.** The provisions of this chapter shall not apply to the transfer or disposition of residential real property:

- (1) To a co-owner;
- (2) To a spouse, parent, or child of the seller;
- (3) To any transfer by devise, descent, or court order;
- (4) By operation of law, including, but not limited to, any transfer by foreclosure, bankruptcy, or partition sales;
- (5) Resulting from conversion of lease land to fee simple;
- (6) To initial sales of new single family dwelling units under a current public offering statement;
- (7) Made pursuant to chapter 521[, the residential landlord-tenant code];
- (8) When the seller and buyer agree in writing that the transfer will not be covered under this chapter as outlined in section 508D-10; [or]
- (9) Regarding the initial sales of condominium apartments under an unexpired public report[.]; or
- (10) Regarding the sale of time share interests duly registered under a current effective disclosure statement pursuant to chapter 514E.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 173

H.B. NO. 1173

A Bill for an Act Relating to Traffic.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Although the legislature, with the passage of Act 358 of 1988 extended to the counties the ability to apply the statewide traffic code to certain private streets, certain language in chapter 291C, Hawaii Revised Statutes, has led to a contrary judicial interpretation. It is the purpose of this Act to make clear that the counties by ordinance, may extend the code to such private roads, open to the public for six months or more, as they see fit.

SECTION 2. Section 46-16, Hawaii Revised Statutes, is amended to read as follows:

**“§46-16 Traffic regulation and control over private streets.** Any provision of law to the contrary notwithstanding, any county and its authorized personnel may impose and enforce traffic regulations and place appropriate traffic control devices, and may enforce chapters 286 and 291C, on the following categories of private streets, highways, or thoroughfares, except private roads used primarily for agricultural and ranching purposes:

- (1) Any private street, highway, or thoroughfare which has been used continuously by the general public for a period of not less than six months; provided that the county shall not be responsible for the maintenance and repair of the private street, highway, or thoroughfare when it imposes or enforces traffic regulations and highway safety laws or places or permits to be placed appropriate traffic control devices on

that street, highway, or thoroughfare; provided further that no adverse or prescriptive rights shall accrue to the general public when the county imposes or enforces traffic regulations and highway safety laws or places appropriate traffic control devices on that street, highway, or thoroughfare; [and] nor shall county consent to the placement of traffic control signs or markings on a private street be deemed to constitute control over that street; and

- (2) Any private street, highway, or thoroughfare which is intended for dedication to the public use as provided in section 264-1 and is open for public travel but has not yet been accepted by the county."

SECTION 3. Section 291C-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "highway" to read:

"“Highway” means the entire width between the boundary lines of every way publicly maintained and those private streets, as defined in section 46-16, over which the application of this chapter has been extended by ordinance, when any part thereof is open to the use of the public for purposes of vehicular travel.”

2. By amending the definition of "official traffic-control devices" to read:

"“Official traffic-control devices” mean all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority or with the consent of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.”

SECTION 4. Section 291C-36, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) [No] Except as provided in subsection (c), no person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal."

2. By amending subsection (c) to read:

"(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs[.], nor the placement on privately owned highways, by the owners of the highways, of signs, of a design and at places approved by the county official responsible for traffic control."

SECTION 5. Section 291C-111, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director of transportation [and], the counties, and owners of private highways, with the consent of the county official responsible for traffic control with respect to highways under their respective jurisdictions shall place signs which are

clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 174

H.B. NO. 1244

A Bill for an Act Relating to Activity Providers and Activity Desks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 2 of Act 214, Session Laws of Hawaii 1990, as amended by section 2 of Act 240, Session Laws of Hawaii 1991, and section 3 of Act 231, Session Laws of Hawaii 1992, is amended to read as follows:

“SECTION 2. This Act shall take effect upon its approval, and shall be repealed [June 30, 1995.] June 30, 1998.”

SECTION 2. Act 231, Session Laws of Hawaii 1992, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect on September 1, 1992, and shall be repealed on [June 30, 1995.] June 30, 1998.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 1995.

(Approved June 14, 1995.)

## ACT 175

H.B. NO. 1409

A Bill for an Act Relating to the State of Hawaii Endowment Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Honolulu Symphony provided world-class music to Hawaii audiences for over ninety years, contributing greatly to the improvement of the business climate of the State and serving as an important state cultural, educational, and economic asset.

For these reasons, the legislature established the State of Hawaii endowment fund as a separate fund of the Honolulu symphony trust, which was created by trust agreement on December 5, 1986, and appropriated \$2,000,000 to the fund following

its creation. The income and capital gains from the fund are designated by statute to be used for the operations of the symphony.

Since May 1993, however, the symphony society, which manages the Honolulu Symphony, has not presented a concert and, in March 1994, it cancelled the season, thereby ceasing the core function of the symphony, which is the performance of music by its musicians.

In the meantime, the musicians, with the assistance of four other presenters, have formed the Hawaii Symphony Orchestra, which began performing concerts in 1994, and made its 1995 debut with a resoundingly successful concert conducted by Maestro Seiji Ozawa.

The purpose of this Act is to clarify the legislative intent that the income and capital gains of the State of Hawaii endowment fund are to be used for the production of music by an Oahu-based symphony orchestra.

SECTION 2. Section 40-88, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be established as a separate fund of the Honolulu symphony trust created by the trust agreement dated December 5, 1986, a fund to be known as the State of Hawaii endowment fund[, the]. The income and capital gains from [which fund shall be] the \$2,000,000 contributed by the State of Hawaii shall be transferred on a quarterly basis to the state foundation on culture and the arts (SFCA), performing and visual arts events private contribution account to be used for [operations of the Honolulu symphony.] the production of music by an Oahu-based symphony orchestra as determined by the state foundation on culture and the arts. The State of Hawaii endowment fund shall be subject to the restrictions that:

- (1) No part of the principal amount contributed to the fund by the State or by matching grants shall be used for operations of the Honolulu symphony;
- (2) Income and capital gains from the fund shall not be distributed for use in the operations of the Honolulu symphony during any period that the value of the fund shall be less than the principal amounts contributed to the fund; and
- (3) The amounts contributed to the fund by the State shall revert to the State to the extent that matching or other conditions to the grant of the funds are not met, and the fund also shall be subject to additional restrictions as may be imposed with respect to transfers of funds in future legislation appropriating sums to be contributed to the fund.”

SECTION 3. At the end of each fiscal year, any unused income from the State of Hawaii endowment fund shall be transferred to the state foundation on culture and the arts for the production of symphonic music and musicians’ salaries.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

ACT 176

H.B. NO. 1643

A Bill for an Act Relating to Nursing Facility Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346E-2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The taxes imposed by this section shall terminate at the end of the month following the time at which the taxes no longer qualify as permissible under section 1903(w) of the federal Social Security Act[.]; but not before July 1, 1997.”

SECTION 2. Section 8 of Act 315, Session Laws of Hawaii 1993, as amended by Act 230, Session Laws of Hawaii 1994, is amended to read as follows:

““SECTION 8. This Act, upon its approval, shall:

- (1) Take effect on July 1, 1993, or the effective date of reimbursement changes referred to in section -14 of section 1 of this Act, whichever is later; and
- (2) Apply to nursing facility income arising from activities occurring on and after the effective date of this Act and before July 1, [1995.] 1997.””

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

ACT 177

H.B. NO. 1763

A Bill for an Act Relating to Hawaiian Fishponds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Constitution of the State of Hawaii pledges to protect and preserve the natural resources of the State and the customary rights exercised by the aboriginal people of Hawaii for the purposes of subsistence. Among the most traditional means of ensuring a source of sustenance on a daily basis was the cultivation of fish and other edible aquatic species in the Hawaiian fishpond system or “loko i’a”. Although the loko i’a continue to represent a viable source of sustenance for the people of the State, the plethora of regulatory requirements that directly and indirectly impact the reconstruction, restoration, and operation of Hawaiian loko i’a inhibits their revitalization throughout the State. The purpose of this Act is to streamline the permitting process for the reconstruction, restoration, repair, and use of certain Hawaiian loko i’a.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER HAWAIIAN FISHPONDS

**§ -1 Definitions.** As used in this chapter:

“Hawaiian fishponds” means the unique, traditional system and methodology of aquaculture practiced by the aboriginal people of Hawaii, and found nowhere else in the world. Generally referred to as “loko i’a”, the system mastered by ancient Hawaiians includes but is not limited to loko kuapa, loko umeiki, and loko pu‘uone. Loko i’a are natural or artificial enclosures; loko kuapa are enclosures built upon a reef, loko umeiki are a type of permanent fish-trap structure, and loko pu‘uone are enclosed by sand. The term does not include any fishpond designed in a manner or constructed for purposes other than those associated with traditional loko i’a management and culture.

**§ -2 Exemption from environmental impact statement law.** The proposed reconstruction, restoration, repair, or use of any Hawaiian fishpond shall be exempt from the requirements of chapter 343; provided that it will comply with the following conditions:

- (1) The fishpond is not adjacent to a sandy beach;
- (2) The fishpond stocks only native aquatic organisms;
- (3) The fishpond does not operate as an intensive culture system in which cultured organisms require frequent or periodic artificial feeding, artificial aeration of water, or artificial pumping of water through the fishponds for their growth and survival;
- (4) Bulk chemicals are not added to the water for the control of pathogens or parasites;
- (5) Coastal access is allowed to any person mauka of the fishpond and makai of walls;
- (6) The fishpond and its operations do not harm any threatened or endangered species; and
- (7) The fishpond is not used for water recreational purposes except those recreational activities customarily and traditionally practiced in Hawaiian fishponds prior to 1778.

**§ -3 Department assistance.** The department of land and natural resources shall actively assist applicants applying for permits, certifications, and approvals to reconstruct, restore, repair, and use Hawaiian fishponds. The program shall assist applicants in sending permit applications to all affected agencies.”

SECTION 3. Chapter 342D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342D- Hawaiian fishponds.** The department shall process applications for permits and water quality certifications for the reconstruction, restoration, repair, or reuse of any Hawaiian fishpond as defined in section -1 before all other permits and certifications. The director shall render a decision on the completeness of any application for that permit or water quality certification within thirty days of receipt. Applications for fishpond reconstruction, restoration, or repair that are incomplete shall be denied without prejudice. The director shall render a decision on any complete application for a permit or water quality certification for any fishpond within one hundred fifty days.”

SECTION 4. Section 183C-6, Hawaii Revised Statutes, is amended to read as follows:



“~~[[§183C-6]]~~ **Permits and site plan approvals.** (a) The department shall regulate land use in the conservation district by the issuance of permits.

(b) The department shall render a decision on a completed application for a permit within one-hundred-eighty days of its acceptance by the department. If within one-hundred-eighty days after acceptance of a completed application for a permit, the department shall fail to give notice, hold a hearing, and render a decision, the owner may automatically put the owner’s land to the use or uses requested in the owner’s application. When an environmental impact statement is required pursuant to chapter 343, or when a contested case hearing is requested pursuant to chapter 91, the one-hundred-eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board.

(c) The department shall hold a public hearing in every case involving the proposed use of land for commercial purposes, at which hearing interested persons shall be afforded a reasonable opportunity to be heard. Notice of the time and place of the hearing shall be published at least once in a newspaper of general circulation in the State and in the county in which the property is located. The notice shall be given not less than twenty days prior to the date set for the hearing. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purposes of its public hearing or hearings, the department shall have the power to summon witnesses, administer oaths, and require the giving of testimony. As used in this paragraph, the term “commercial purposes” shall not include the use of land for utility purposes.

(d) The department shall regulate the construction, reconstruction, demolition, or alteration of any structure, building, or facility by the issuance of site plan approvals.

(e) Any permit for the reconstruction, restoration, repair, or use of any Hawaiian fishpond exempted from the requirements of chapter 343 under section -2 shall provide for compliance with the conditions of section -2.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 178**

H.B. NO. 1834

A Bill for an Act Relating to the Hawaii Public Procurement Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§28- Employment of attorneys.** (a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the department in any litigation, rendering legal counsel to the department, or drafting legal documents for

the department; provided that the foregoing provision shall not apply to the employment or retention of attorneys:

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
  - (2) By any court or judicial or legislative office of the State;
  - (3) By the legislative reference bureau;
  - (4) By any compilation commission that may be constituted from time to time;
  - (5) By the real estate commission for any action involving the real estate recovery fund;
  - (6) By the contractors license board for any action involving the contractors recovery fund;
  - (7) By the trustees for any action involving the travel agency recovery fund;
  - (8) By the office of Hawaiian affairs;
  - (9) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485;
  - (10) As grand jury counsel;
  - (11) By the Hawaiian home lands trust individual claims review panel; or
  - (12) By a department, in the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines to employ or retain an attorney for a department; provided that the governor thereupon waives the provision of this section.
- (b) For purposes of this section the term "department" includes any department, board, commission, agency, bureau, or officer of the State.
- (c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian affairs, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, or as grand jury counsel, shall be a deputy attorney general.
- (d) All attorneys retained by contract, whether by the attorney general or a department, shall be retained in accordance with chapter 103D."

SECTION 2. Section 84-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, [or] an employee, or [with] a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of [\$4,000] \$10,000 unless:<sup>1</sup> [the contract has been awarded through an open, public process. A state agency may, however, enter into such contract without resort to a competitive bidding process when, in the judgment of the agency, the property or services should not, in the public interest, be acquired through competitive bidding; provided that written justification for the noncompetitive award of such contract shall be made a matter of public record and shall be filed with the state ethics commission at least ten days before such contract is entered into.

With respect to members of boards, commissions, and committees, this subsection shall apply only to contracts entered into between a business in which a member has a controlling interest and a state agency which has jurisdiction over the board, commission, or committee to which the member is appointed.]

- (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;

- (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
- (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.”

SECTION 3. Section 103D-102, Hawaii Revised Statutes, is amended to read as follows:

“**[§103D-102] Application of this chapter.** (a) [This chapter shall apply only to contracts solicited or entered into after the effective date of this chapter, unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

(b) This chapter shall apply to every expenditure of public funds irrespective of their source by a governmental body as defined herein, under any contract; provided that the expenditure of federal assistance moneys shall be in accordance with federal requirements. This chapter shall not apply to:

- (1) Grants, subsidies, or purchases of services<sup>2</sup> made pursuant to chapter 42D;
- (2) Employment agreements or collective bargaining agreements;
- (3) The purchase of goods, services, or construction from any other governmental body, other state governments, or the federal government, other than the University of Hawaii bookstores;
- (4) Permanent settlements, subsidies, or other claims that must be paid by law;
- (5) Contracts for expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
- (6) Works of art for museum and public display;
- (7) Published books, maps, periodicals, and technical pamphlets;
- (8) Meats and foodstuffs for the Kalaupapa settlement; and
- (9) Goods purchased by the State for commercial resale to the public.

Nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(c) Unless other laws expressly exempt a governmental body from the requirements of this chapter or any of its provisions, this chapter and all rules adopted by the policy office pursuant to section 103D-211 shall apply to all governmental bodies of this State; except that any county may rely on other provisions established by charter, ordinance, or rules adopted in accordance with chapter 91 provided that those provisions are consistent with the requirement<sup>2</sup> of this chapter.] This chapter shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, any of which the State receives or is owed; in-kind benefits; or forbearance; provided that nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any other grant, gift, bequest, or cooperative agreement.

(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before the effective date of this chapter, unless the parties agree to its application to a contract solicited or entered into prior to the effective date;
- (2) To disburse funds, irrespective of their source:

- (A) For grants, subsidies, or purchases of services as those terms are defined in section 42D-1, made in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
- (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
- (C) To satisfy obligations which the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;
- (D) For entitlement programs, including public assistance, unemployment, and workers compensation programs, established by state or federal law;
- (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
- (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
- (G) To governmental bodies of the State; and
- (H) As loans, under loan programs administered by a governmental body;
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) Procurement of goods or services, including the following:
  - (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
  - (B) Works of art for museum or public display;
  - (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
  - (D) Meats and foodstuffs for the Kalaupapa settlement;
  - (E) Opponents for athletic contests;
  - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
  - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
  - (H) Goods and services for commercial resale by the State; and
  - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;

which the policy office determines by rule or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- (5) Made by governmental bodies, or specific procurements which are expressly exempt from any or all of the requirements of this chapter by:
  - (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter;

(B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms.

(c) Governmental bodies making procurements which are exempt from this chapter are nevertheless encouraged to adopt and use provisions of this chapter and its implementing rules as appropriate; provided that the use of one or more provisions shall not constitute a waiver of the exemption conferred and subject the procurement or the governmental body to any other provision of this chapter."

SECTION 4. Section 103D-105, Hawaii Revised Statutes, is amended to read as follows:

**"[§103D-105] Public access to procurement information.** [Procurement information] Government records relating to procurement shall be available to the public as provided in chapter 92F. [The policy office shall adopt rules governing requests for confidentiality made by a bidder or offeror to prevent the unwarranted disclosure of trade secrets or proprietary information.] Part I of chapter 92 shall not apply to discussions, deliberations, or decisions required to be conducted or made confidentially under this chapter."

SECTION 5. Section 103D-204, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The procurement office shall be [part of the office of the comptroller but the administrator shall operate independent<sup>2</sup> of the comptroller and shall have final authority over all procurement operations.] assigned for administrative purposes to the department of accounting and general services; provided that the administrator shall operate independently of the comptroller. The administrator may appoint and dismiss a private secretary without regard to chapter 76 or 77, who shall serve at the administrator's pleasure. The comptroller shall provide [appropriate] support to permit the administrator to satisfy all of the administrator's responsibilities as the chief procurement officer[.] for those governmental bodies of the executive branch of the State for which a chief procurement officer is not otherwise designated."

SECTION 6. Section 103D-209, Hawaii Revised Statutes, is amended to read as follows:

**"[§103D-209] Authority to contract for certain services.** [(a) For the purpose of procuring professional services,] Except as provided in section 28- with respect to agencies of the State of Hawaii, any governmental body of this State may act as a purchasing agency and contract on its own behalf [for such service<sup>2</sup>] for professional services subject to this chapter and rules adopted by the policy office. The purchasing agency [shall] may consult with the chief procurement officer or the officer's designee when procuring these services.

[(b) No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation, the public utilities commission, or the labor and industrial relations appeals board;
- (2) To any court or judicial or legislative officer of the State;

- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- (9) To the employees' retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel;
- (11) To all community hospitals and the division of community hospitals for any attorney contracted by the hospitals through the attorney general; or
- (12) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general.]”

SECTION 7. Section 103D-302, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An invitation for bids shall be issued,<sup>1</sup> and shall include a purchase description and all contractual terms and conditions applicable to the procurement. If the invitation for bids is for construction, it shall specify that all bids include the name of each person or firm to be engaged by the bidder as a joint contractor or subcontractor in the performance of the contract and the nature and scope of the work to be performed by each. Construction bids that do not comply with this requirement may be accepted if [the chief procurement officer or rules of the policy office conclude that] acceptance is in the best interest of the [public] State and the value of the work to be performed by the joint contractor or subcontractor is equal to or less than one per cent of the total bid amount.”

SECTION 8. Section 103D-303, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [When, under rules adopted pursuant to this chapter, the chief procurement officer, the head of a purchasing agency, or a designee of either officer above the level of procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous, a contract may be entered into by competitive sealed proposals.] Competitive sealed proposals may be utilized [for the procurement of specified types of] to procure goods, services, or construction [without necessity for the written determination otherwise required by this subsection if the policy office provides by rule that it is] designated in rules

adopted by the procurement policy office as goods, services, or construction which are either not practicable or not advantageous to the State to procure [the specified types of goods, services, or construction] by competitive sealed bidding. [The policy office shall adopt rules pertaining to the acquisition of such services through the use of competitive sealed proposals.] Competitive sealed proposals may also be utilized when the head of a purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State.”

SECTION 9. Section 103D-303, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) [As provided in the request for proposals, and under rules adopted by the policy office, discussions] Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.”

SECTION 10. Section 103D-304, Hawaii Revised Statutes, is amended to read as follows:

“**[[§103D-304]] Procurement of professional services.** (a) [Except as authorized under sections 103D-305, 103D-306, and 103D-307, professional services shall be procured in accordance with section 103D-303, unless:

- (1) The purchasing agency secures the approval of the chief procurement officer to utilize the procedures set out in subsection (e) through (g) before proceeding with the procurement; or
- (2) The head of the purchasing agency determines in writing that subsections (e) through (g) must be used because all of the provisions of section 103D-303 cannot be satisfied within the time available to complete the procurement because of the urgency of the need to procure such services.

The chief procurement officer shall have ten days after receiving the request of the purchasing agency under paragraph (1) to act upon the request; if a determination is not made within that period, the purchasing agency may proceed with the procurement. The chief procurement officer’s determination shall be based upon criteria established by rules of the policy office.] Professional services shall be procured in accordance with sections 103D-302, 103D-303, 103D-305, 103D-306, or 103D-307, or this section. Contracts for professional services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(b) [All requirements for professional services shall be publicly announced and contracts for such services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(c) [At least once annually, the chief procurement officer] At a minimum, before the beginning of each fiscal year, the head of each purchasing agency shall [give written public notice to invite] publish a notice inviting persons engaged in providing professional services which the agency anticipates needing in the next

fiscal year, to submit current statements of qualifications and expressions of interest to the [head of each purchasing agency requiring such services.] agency. Additional notices may be given if: [the]

- (1) The response to the initial notice is inadequate [or];
- (2) The response to the initial notice does not result in adequate representation of available sources[.]; or
- (3) Previously unanticipated needs for professional services arise.

The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements by filing a new statement prior to the date designated for submission.

[(d) At least annually, the head of each purchasing agency shall form an initial] (c) The head of the purchasing agency shall designate a review committee consisting of a minimum of three employees from the agency or from another governmental body, with sufficient education, training, and licenses or credentials for each type of professional service which may be required. The committee shall review and evaluate all submissions and other pertinent information, including references and reports, and prepare a list of qualified persons to provide [such] these services. Persons included on the list of qualified persons may amend their statements of qualifications as necessary or appropriate. Persons shall immediately inform the head of the purchasing agency of any change in information furnished which would disqualify the person from being considered for a contract award.

[(e) Contracts for professional services of \$10,000 or more shall be awarded only after] (d) Whenever during the course of the fiscal year the agency needs a particular professional service, the head of the purchasing agency shall designate a screening committee [evaluates] to evaluate the statements of qualification and performance data of those persons on the list prepared pursuant to subsection [(d)] (c) along with any other pertinent information, including references and reports. The screening committee shall be comprised of a minimum of three employees of the purchasing agency [for the particular project] with sufficient education, training, and licenses or credentials in the area of the services required. If the purchasing agency and using agency are different, the committee shall include at least one qualified employee from the using agency. [The committee shall be designated by the head of the purchasing agency and, if appropriate,] When the committee includes an employee from a using agency, the employee shall be appointed by the head of the using agency. If qualified employees are not available from these agencies, the officers may designate employees of other governmental bodies. [Unless fewer than three submissions have been received, the screening committee shall conduct discussions with at least three persons regarding the services which are required and the services they are able to provide. The screening committee shall evaluate each submission based on criteria established and published by the screening committee for the particular project.] The screening committee shall establish criteria for the selection, and evaluate the submissions of persons on the list prepared pursuant to subsection (c) and any other pertinent information which may be available to the agency, against that selection criteria. The committee may conduct confidential discussions with any person who is included on the list prepared pursuant to subsection (c) regarding the services which are required and the services they are able to provide. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The committee shall provide the head of the purchasing agency with the names of the three persons who the committee concludes [is] are the most qualified to provide the services required [for the project], with a summary of each of their qualifications. The contract file shall contain a copy of the criteria established for the selection and the committee's summary of qualifications for each of the persons provided to the head of the purchasing agency by the committee.



[(f)] (e) The head of the purchasing agency shall evaluate the summary of qualifications for each of the three persons provided by the screening committee and may conduct additional discussions with any of them. The head of the purchasing agency shall then rank the three persons in order of preference. The [procurement officer] head of the purchasing agency [requiring the services] shall negotiate a contract with the first [ranked] person, including a rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the services to be rendered. If [the procurement officer is unable to negotiate] a satisfactory contract cannot be negotiated with the first [ranked] person, negotiations with that person shall be formally terminated[. The procurement officer shall then undertake] and negotiations with the second person on the list[.] shall commence. Failing accord with the second person, [the procurement officer shall formally terminate negotiations. The procurement officer shall then undertake] negotiations with the last person on the list[.] shall commence. If [the procurement officer is unable to negotiate] a contract at a fair and reasonable price[, the procurement officer may request that] cannot be negotiated, the screening committee may be asked to submit the names of three additional persons for the head of the purchasing agency to rank, and resume negotiations in the same manner provided in this subsection. Negotiations shall be conducted confidentially.

[(g)] (f) Contracts for professional services of less than \$10,000 may be negotiated by [a procurement officer] the head of a purchasing agency, with any two persons who appear on the list of qualified persons established pursuant to subsection [(d).] (c). Negotiations shall be conducted in the manner set forth in subsection [(f) and the officer may determine the order in which negotiations are held.] (e) but without establishing any order of preference.

[(h) If professional services are procured pursuant to subsection (a)(2), within five working days after the vendor is selected, the head of the purchasing agency shall transmit a written report to the chief procurement officer detailing the bases for the determination that sufficient time was not available to procure the services in accordance with all of the requirements of section 103D-303. If the chief procurement officer determines in accordance with criteria established by the rules of the policy office that sufficient time was available to procure the services in accordance with all of the requirements of section 103D-303, the contract shall be terminated in accordance with section 103D-707.]”

SECTION 11. Section 103D-305, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-305<sup>2</sup> Small purchases[. Any procurement]; prohibition against parceling. Procurements of:**

- (1) Less than \$10,000 for goods or services; or
- (2) Less than \$25,000 for construction;

[may] shall be made in accordance with procedures set forth in rules adopted by the policy office that are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.”

SECTION 12. Section 103D-306, Hawaii Revised Statutes, is amended to read as follows:

**“[[§103D-306]] Sole source procurement.** (a) A contract may be awarded for goods, services, or construction without competition when[, under rules adopted by the policy office, the chief procurement officer,] the head of a purchasing agency[, or a designee of either] determines in writing that there is only one source for the required good, service, or construction[. A contract may be awarded under this section only after the chief procurement officer has approved the sole source procurement in writing.], the determination is reviewed and approved by the chief procurement officer, the written determination is posted in the manner described in rules adopted by the policy board, and no objection is outstanding. The written determination, any objection, and a written summary of the disposition of any objection shall be included in the contract file.

(b) [The policy office shall adopt rules requiring the chief procurement officer and the purchasing agency to post, in an area accessible to the public, a notice of intent to issue a sole source contract. The rules shall provide for the posting of the notice sufficiently in advance of the issuance of the contract to allow a reasonable opportunity for objections to be filed, and shall specify the contents of the notice, including but not limited to the name of the party to be awarded the contract, the date on which the contract is to be issued, a statement indicating that any person may file written objections to the issuance of the contract, the name and address of the person or agency with whom the objections are to be filed, and the date by which the objections are to be filed. The rules shall<sup>2</sup> provide procedures for the disposition of objections.

(c) A purchasing agency shall submit a written request limited to evidence supporting the request for a sole source determination. The chief procurement officer may require the submission of cost or pricing data in connection with an award proposed under this section.

(d) The chief procurement officer may approve the cost or pricing data, or may negotiate with the sole source vendor for price, terms, and conditions that are in the State's best interest.] The written determination shall contain such information as the rules of the policy board require. Persons may file written objections to the issuance of a contract pursuant to this section. Rules of the policy board shall provide for the disposition of objections, including a written summary of the disposition.

(c) The rules of the policy office shall include a non-exhaustive list of procurements which constitute sole source procurements and criteria for determining when a particular procurement may be determined to be a sole source. The rules shall also prescribe when cost or pricing data must be considered and how they are to be used in establishing the price, terms, and conditions, if any, for a contract awarded pursuant to this section.”

SECTION 13. Section 103D-309, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No contract awarded pursuant to section 103D-302, 103D-303, or 103D-306, shall be binding or of any force and effect unless the comptroller, the director of finance of a county, or the respective chief financial [officer] officers of the University of Hawaii, [or] the department of education, the judiciary, or the legislative branches of the State or county, as the case may be, endorses thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; provided that if the contract is a multi-term contract, the comptroller, director of finance, or chief financial officer shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the

contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract; provided further that this section shall not apply to any contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded[.], or to any contract for which consideration is in kind or forbearance."

SECTION 14. Section 103D-321, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chief procurement officer shall maintain a record of all [contracts] procurements made under sections 103D-102(b)(4), 103D-304, 103D-306,<sup>1</sup> and 103D-307 for a minimum of five years. The record shall contain:

- (1) Each contractor's name;
- (2) The amount and type of each contract; and
- (3) A listing of the goods, services, or construction procured under each contract."

SECTION 15. Section 103D-214, Hawaii Revised Statutes, is repealed.

SECTION 16. Act 188, Session Laws of Hawaii 1994, is amended by amending section 7 to read as follows:

"SECTION 7. This Act shall take effect on July 2, 1994[, and shall be repealed on June 30, 1996; provided section 103D-209, Hawaii Revised Statutes, shall be reenacted in the form<sup>2</sup> which it reads<sup>2</sup> on July 1, 1994.]; provided that section 2 shall be repealed on June 30, 1995, and the remaining sections of this Act shall be repealed on June 30, 1996."

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 18. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

#### Notes

1. Should be underscored.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.

## ACT 179

H.B. NO. 1918

A Bill for an Act Relating to Health Maintenance Organizations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### "CHAPTER HEALTH MAINTENANCE ORGANIZATION ACT

§ -1 **Definitions.** For purposes of this chapter:

“Basic health care services” means the following medical services: preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory services, and diagnostic and therapeutic radiological services. It does not include mental health services, services for alcohol or drug abuse, dental or vision services, or long-term rehabilitation treatment, except as provided in chapter 431M.

“Capitated basis” means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of contracted services without regard to the type, value, or frequency of services provided. For purposes of this definition, capitated basis includes the cost associated with operating staff model facilities.

“Carrier” means a health maintenance organization, an insurer, a nonprofit hospital and medical service corporation, a mutual benefit society, or other entity responsible for the payment of benefits or provision of services under a group contract.

“Commissioner” means the insurance commissioner.

“Copayment” means an amount an enrollee must pay to receive a specific service which is not fully prepaid.

“Deductible” means the amount an enrollee is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment.

“Enrollee” means an individual who is covered by a health maintenance organization.

“Evidence of coverage” means a statement of the essential features and services of the health maintenance organization coverage that is given to the subscriber by the health maintenance organization or by the group contract holder.

“Extension of benefits” means the continuation of coverage under a particular benefit provided under a contract following termination with respect to an enrollee who is totally disabled on the date of termination.

“Grievance” means a written complaint submitted in accordance with the health maintenance organization’s formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee.

“Group contract” means a contract for health care services which by its terms limits eligibility to members of a specified group. The group contract may include coverage for dependents.

“Group contract holder” means the person to which a group contract has been issued.

“Health maintenance organization” means any person that undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments, deductibles, or both.

“Individual contract” means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

“Insolvent” or “insolvency” means that the health maintenance organization has been declared insolvent and placed under an order of supervision, rehabilitation, or liquidation by a court of competent jurisdiction.

“Managed hospital payment basis” means agreements wherein the financial risk is primarily related to the degree of utilization rather than to the cost of services.

“Net worth” means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt.

“Participating provider” means a provider as defined in this section, who, under an express or implied contract with the health maintenance organization or

with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization.

“Person” means any natural or artificial person including but not limited to individuals, partnerships, associations, trusts, or corporations.

“Provider” means any physician, hospital, or other person licensed or otherwise authorized to furnish health care services.

“Replacement coverage” means the benefits provided by a succeeding carrier.

“Subscriber” means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization, or in the case of an individual contract, the person in whose name the contract is issued.

“Uncovered expenditures” means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization’s insolvency, and for which no alternative arrangements have been made that are acceptable to the commissioner. Uncovered expenditures do not include expenditures for services when a provider has agreed not to bill the enrollee even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.

**§ -2 Establishment of health maintenance organizations.** (a) Any person may apply to the commissioner for a certificate of authority to establish and operate a health maintenance organization in compliance with this chapter. No person shall establish or operate a health maintenance organization in this State without obtaining a certificate of authority under this chapter. A foreign corporation may qualify under this chapter, subject to its registration to do business in this State in compliance with all provisions of this chapter and other applicable state laws.

(b) Any health maintenance organization which has not previously received a certificate of authority to operate as a health maintenance organization as of the effective date of this chapter shall submit an application for a certificate of authority under subsection (c) within one-hundred-eighty days of the effective date of this chapter. Each applicant may continue to operate until the commissioner acts upon the application. In the event that an application is denied under this chapter, the applicant shall thereafter be treated as a health maintenance organization whose certificate of authority has been revoked.

(c) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the commissioner, and shall set forth or be accompanied by the following:

- (1) A copy of the organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;
- (2) A copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;
- (3) A list of the names, addresses, official positions, and biographical information on forms acceptable to the commissioner of the persons who are to be responsible for the conduct of the affairs and day-to-day operations of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, and the principal officers in the case of a corpora-

- tion, or the partners or members in the case of a partnership or association;
- (4) A copy of any contract form made or to be made between any class of providers and the health maintenance organization and a copy of any contract made or to be made between third party administrators, marketing consultants, or persons listed in paragraph (3) and the health maintenance organization;
- (5) A copy of the form of evidence of coverage to be issued to the enrollees;
- (6) A copy of the form of group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;
- (7) Financial statements showing the applicant's assets, liabilities, and sources of financial support, and both a copy of the applicant's most recent certified financial statement and an unaudited current financial statement;
- (8) A financial feasibility plan which includes detailed enrollment projections, the methodology for determining premium rates to be charged during the first twelve months of operations certified by an actuary or other qualified person, a projection of balance sheets, cash flow statements showing any capital expenditures, purchase and sale of investments, deposits with the State, income and expense statements anticipated from the start of operations until the organization has had net income for at least one year, and a statement as to the sources of working capital as well as any other sources of funding;
- (9) A power of attorney duly executed by such applicant, if not domiciled in this State, appointing the commissioner and the commissioner's successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this State upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this State may be served;
- (10) A statement or map reasonably describing the geographic area or areas to be served;
- (11) A description of the internal grievance procedures to be utilized for the investigation and resolution of enrollee complaints and grievances;
- (12) A description of the proposed quality assurance program, including the formal organizational structure, methods for developing criteria, procedures for comprehensive evaluation of the quality of care rendered to enrollees, and processes to initiate corrective action and reevaluation when deficiencies in provider or organizational performance are identified;
- (13) A description of the procedures to be implemented to meet the protection against insolvency requirements in section -8;
- (14) A list of the names, addresses, and license numbers of all providers or groups of providers with which the health maintenance organization has agreements; and
- (15) Such other information as the commissioner may require.

(d) If the commissioner finds that the applicant has met the requirements for and is fully entitled thereto under the applicable insurance laws, the commissioner shall issue an appropriate certificate of authority to the applicant. If the commissioner does not so find, the commissioner shall deny the applicant the certificate of authority within a reasonable length of time following filing of the application by the applicant. A certificate of authority shall be denied only after the commissioner complies with the requirements of section -14.

(e) The commissioner may adopt rules under chapter 91 for the implementation and administration of this chapter.

**§ -3 Powers of health maintenance organizations.** (a) The powers of a health maintenance organization include the following:

- (1) Purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and their ancillary equipment, and such property as may reasonably be required for its principal office or for such purposes as may be necessary in the transaction of the business of the organization;
- (2) Participate in transactions between affiliated entities, including loans and the transfer of responsibility under all providers, subscribers, and other contracts between affiliates or between the health maintenance organization and its parent;
- (3) Furnishing health care services through providers, provider associations, or agents for providers which are under contract with or employed by the health maintenance organization;
- (4) Contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment, and administration;
- (5) Contracting with an insurance company licensed in this State, or with a hospital or medical service corporation authorized to do business in this State, for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization;
- (6) Offering other health care services, in addition to basic health care services. Non-basic health care services may be offered by a health maintenance organization on a prepaid basis without offering basic health care services to any group or individual;
- (7) Joint marketing of products with an insurance company licensed in this State or with a hospital or medical service corporation authorized to do business in this State as long as the company that is offering each product is clearly identified; and
- (8) Offering a point of service product consisting of:
  - (A) In-plan covered health care services obtained from providers who are employed by, or otherwise affiliated with the health maintenance organization and emergency services; and
  - (B) Out-of-plan covered services consisting of non-emergency, self-referred covered health care services obtained from providers who are not otherwise employed by, not under contract with, and not otherwise affiliated with the health maintenance organization, or services obtained from affiliated specialists without a referral; provided the health maintenance organization shall not expend more than ten per cent of its total health care expenditures for out-of-plan covered services.

(b) A health maintenance organization shall file notice, with adequate supporting information, with the commissioner prior to the exercise of any power granted in subsection (a)(1), (2), or (4) which may affect the financial soundness of the health maintenance organization. The commissioner shall disapprove such exercise of power only if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner does not disapprove the request within thirty days of the filing of the notice, it shall be deemed approved. The commissioner may adopt rules exempting from the filing requirement of this subsection those activities having a minimal effect.

**§ -4 Fiduciary responsibilities.** (a) Any director, officer, employee, or partner of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of an organization shall be responsible for the funds in a fiduciary relationship to the organization.

(b) A health maintenance organization shall maintain in force a fidelity bond or fidelity insurance on such employees, officers, directors, and partners in an amount not less than \$250,000 for each health maintenance organization or a maximum of \$5,000,000 in aggregate maintained on behalf of health maintenance organizations owned by a common parent corporation, or such sum as may be prescribed by the commissioner.

**§ -5 Annual report.** (a) Every health maintenance organization shall annually, on or before March 1, file a report verified by at least two principal officers with the commissioner covering the preceding calendar year. Such report shall comply with sections 431:3-301 and 431:3-302. The commissioner may prescribe on which forms the reports are to be filed. In addition, the health maintenance organization annually shall file with the commissioner the following by the dates specified:

- (1) An audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and results of operations of the health maintenance organization on or before June 1, or such later date as the commissioner upon request or for cause may specify. The health maintenance organization, on an annual basis and prior to the commencement of the audit, shall notify the commissioner in writing of the name and address of the person or firm retained to conduct the annual audit. The commissioner may disapprove the health maintenance organization's designation within fifteen days of receipt of the health maintenance organization's notice, and the health maintenance organization shall be required to designate another independent certified public accountant or accounting firm.
- (2) A list of the providers who have executed a contract that complies with section -8(d) on or before March 1; and
- (3) A description of the grievance procedures, the total number of grievances handled through those procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances on or before March 1.

(b) The commissioner may require additional reports as are deemed necessary and appropriate to enable the commissioner to carry out the commissioner's duties under this chapter.

(c) The commissioner may suspend or revoke the certificate of authority of any health maintenance organization who fails to file any of the documents required under subsection (a). In lieu or in addition to the suspension or revocation of the certificate of authority of any health maintenance organization, the commissioner may fine the health maintenance organization not less than \$100 and not more than \$500 for each day of delinquency.

**§ -6 Information to enrollees or subscribers.** (a) The health maintenance organization shall provide to its subscribers a list of providers and participating providers, upon enrollment and reenrollment.

(b) Every health maintenance organization shall provide to its subscribers notice of any material change in the operation of the organization that will affect them directly within thirty days of the material change.



(c) The health maintenance organization shall provide to subscribers information on how services may be obtained, where additional information on access to services may be obtained, a description of the internal grievance procedures, and a telephone number for the enrollee to contact the health maintenance organization at no cost to the enrollee.

(d) For the purpose of this section "material change" means any major change in provider or participating provider agreements.

**§ -7 Investments.** All investments permitted under this section or section -3(a)(1) can be considered as admitted assets in determination of net worth; provided that these investments are in compliance with rules adopted by the commissioner. With the exception of investments made in accordance with section -3(a)(1), the funds of a health maintenance organization shall be invested only as permitted by rules adopted by the commissioner pursuant to chapter 91.

**§ -8 Protection against insolvency.** (a) Net worth requirements are as follows:

- (1) Before issuing any certificate of authority, the commissioner shall require that the health maintenance organization has an initial net worth of \$1,500,000 and shall thereafter maintain the minimum net worth required under paragraph (2).
  - (2) Except as provided in paragraph (3), every health maintenance organization shall maintain a minimum net worth equal to the greater of:
    - (A) \$1,500,000;
    - (B) Two per cent of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first \$150,000,000 of premium and one per cent of annual premium on the premium in excess of \$150,000,000;
    - (C) An amount equal to the sum of three months uncovered health care expenditures as reported on the most recent financial statement filed with the commissioner; or
    - (D) An amount equal to the sum of:
      - (i) Eight per cent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the commissioner; and
      - (ii) Four per cent of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the commissioner.
  - (3) The following shall apply in determining compliance with the requirements of this subsection:
    - (A) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. Any interest obligation relating to the repayment of any subordinated debt shall be similarly subordinated;
    - (B) The interest expenses relating to the repayment of any fully subordinated debt shall be considered covered expenses; and
    - (C) Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.
- (b) Deposit requirements are as follows:
- (1) Unless otherwise provided below, each health maintenance organization shall deposit with the commissioner or, at the discretion of the

commissioner, with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that are acceptable to the commissioner which at all times shall have a value of not less than \$300,000;

- (2) A health maintenance organization that is in operation on the effective date of this chapter shall make a deposit equal to \$150,000. Within one year after the effective date of this chapter, a health maintenance organization that is in operation on the effective date of this chapter shall make an additional deposit of \$150,000 for a total of \$300,000;
  - (3) Deposits shall be an admitted asset of the health maintenance organization in the determination of net worth;
  - (4) All income from deposits shall be an asset of the health maintenance organization. A health maintenance organization that has made a securities deposit may withdraw that deposit or any part thereof after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the commissioner before being deposited or substituted;
  - (5) The deposit shall be used to protect the interests of the health maintenance organization's enrollees and to assure continuation of health care services to enrollees of a health maintenance organization which is in rehabilitation or conservation. The commissioner may use the deposit for administrative costs directly attributable to a receivership or liquidation. If the health maintenance organization is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of article 15 of chapter 431; and
  - (6) The commissioner may reduce or eliminate the deposit requirement if the health maintenance organization deposits with the director of finance of this State, or the insurance commissioner, or other official body of the state or jurisdiction of domicile of such health maintenance organization, for the protection of all subscribers and enrollees, wherever located, cash, acceptable securities, or surety, and delivers to the commissioner a certificate to such effect, duly authenticated by the appropriate state official holding the deposit.
- (c) Every health maintenance organization, when determining liabilities, shall include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the organization is or may be liable, and to provide for the expense of adjustment or settlement of claims. Such liabilities shall be computed in accordance with rules adopted by the commissioner upon reasonable consideration of the ascertained experience and character of the health maintenance organization.
- (d) Every contract between a health maintenance organization and a participating provider of health care services shall be in writing and shall set forth that in the event the health maintenance organization fails to pay for health care services as set forth in the contract, the subscriber or enrollee shall not be liable to the provider for any sums owed by the health maintenance organization. In the event that a contract with a participating provider has not been reduced to writing as required by this subsection or that a contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the subscriber or enrollee sums owed by the health maintenance organization. No participating provider, or agent, trustee, or assignee thereof, may maintain any action at law against a subscriber or enrollee to collect sums owed by the health maintenance organization.

(e) The commissioner shall require that each health maintenance organization have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits. In considering such a plan, the commissioner may require:

- (1) Insurance to cover the expenses to be paid for continued benefits after an insolvency;
- (2) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health maintenance organization's insolvency for which premium payment has been made and until the enrollees' discharge from inpatient facilities;
- (3) Insolvency reserves;
- (4) Acceptable letters of credit; or
- (5) Any other arrangements acceptable to the commissioner to assure that benefits are continued as specified above.

(f) An agreement to provide health care services between a provider and a health maintenance organization shall require that a provider shall give the organization at least sixty days' advance notice in the event of termination.

**§ -9 Uncovered expenditures insolvency deposit.** (a) If, at any time, uncovered expenditures exceed ten per cent of total health care expenditures, a health maintenance organization shall place with the commissioner or with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is maintained, an uncovered expenditures insolvency deposit consisting of cash or securities that are acceptable to the commissioner. Such deposit shall have, at all times, a fair market value in an amount of one-hundred-twenty per cent of the health maintenance organization's outstanding liability for uncovered expenditures for enrollees in this State, including incurred but not reported claims, and shall be calculated as of the first day of the month and maintained for the remainder of the month. If a health maintenance organization is not otherwise required to file a quarterly report, it shall file a report within forty-five days of the end of the calendar quarter with information sufficient to demonstrate compliance with this section.

(b) The deposit required under this section is in addition to the deposit required under section -8 and is an admitted asset of the health maintenance organization in the determination of net worth. All income from the deposits or trust accounts shall be assets of the health maintenance organization and may be withdrawn from the deposit or account quarterly with the approval of the commissioner.

(c) A health maintenance organization that has made a deposit may withdraw that deposit or any part of the deposit if:

- (1) A substitute deposit of cash or securities of equal amount and value is made;
- (2) The fair market value exceeds the amount of the required deposit; or
- (3) The required deposit under subsection (a) is reduced or eliminated.

Deposits, substitutions, or withdrawals may be made only with the prior written approval of the commissioner.

(d) The deposit required under this section is held in trust and may be used only as provided in this section. The commissioner may use the deposit of an insolvent health maintenance organization for administrative costs associated with administering the deposit and payment of claims of enrollees of this State for uncovered expenditures in this State. Claims for uncovered expenditures shall be paid on a pro rata basis based on assets available to pay such ultimate liability for incurred expenditures. Partial distribution may be made pending final distribution.

Any amount of the deposit remaining shall be paid into the liquidation or receivership of the health maintenance organization.

(e) The commissioner may prescribe by rule the time, manner, and form for filing claims under subsection (d).

(f) The commissioner may require by rule or order health maintenance organizations to file annual, quarterly, or more frequent reports as the commissioner deems necessary to demonstrate compliance with this section. The commissioner may require that the reports include liability for uncovered expenditures as well as an audit opinion.

**§ -10 Enrollment period.** (a) In the event of an insolvency of a health maintenance organization, upon order of the commissioner, all other carriers offered as alternatives to the insolvent health maintenance organization at a group's last regular enrollment period shall offer to those members of the group who enrolled in the insolvent health maintenance organization a thirty-day enrollment period commencing upon the date of insolvency. Each carrier shall offer the enrollees of the insolvent health maintenance organization the same coverages and rates that it had offered to the enrollees of the group at its last regular enrollment period.

(b) If no other carrier had been offered to some groups enrolled in the insolvent health maintenance organization, or if the commissioner determines that the other health benefit plans lack sufficient health care delivery resources to assure that health care services will be available and accessible to all of the group's enrollees of the insolvent health maintenance organization, then the commissioner shall equitably allocate the insolvent health maintenance organization's group contracts for such groups among all health maintenance organizations that operate within a portion of the insolvent health maintenance organization's service area, taking into consideration the health care delivery resources of each health maintenance organization. Each health maintenance organization to which a group is so allocated shall offer the group the health maintenance organization's existing coverage that is most similar to each group's coverage with the insolvent health maintenance organization at rates determined in accordance with the successor health maintenance organization's existing rating methodology.

(c) The commissioner also shall allocate equitably the insolvent health maintenance organization's nongroup enrollees who are unable to obtain other coverage among all health maintenance organizations which operate within a portion of the insolvent health maintenance organization's service area, taking into consideration the health care delivery resources of each health maintenance organization. Each health maintenance organization to which nongroup enrollees are allocated shall offer such nongroup enrollees the health maintenance organization's existing coverage for individual or conversion coverage as determined by the enrollee's type of coverage in the insolvent health maintenance organization at rates determined in accordance with the successor health maintenance organization's existing rating methodology. Successor health maintenance organizations that do not offer direct nongroup enrollment may aggregate all of the allocated nongroup enrollees into one group for rating and coverage purposes.

**§ -11 Replacement coverage.** (a) For purposes of this chapter, "discontinuance" means the termination of the contract between the group contract holder and a health maintenance organization due to the insolvency of the health maintenance organization, and does not refer to the termination of any agreement between any individual enrollee and the health maintenance organization.

(b) Any carrier providing replacement coverage with respect to group hospital, medical, or surgical expense or service benefits within a period of sixty days from the date of discontinuance of a prior health maintenance organization contract

or policy providing such hospital, medical, or surgical expense or service benefits shall immediately cover all enrollees who were validly covered under the previous health maintenance organization contract or policy at the date of discontinuance and who would otherwise be eligible for coverage under the succeeding carrier's contract, regardless of any provisions of the contract relating to active employment or hospital confinement or pregnancy.

(c) Except to the extent benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in a succeeding carrier's contract of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's contract shall be applied with respect to those enrollees validly covered under the prior carrier's contract or policy on the date of discontinuance.

**§ -12 Powers of insurers and hospital and medical service corporations.** (a) An insurance company licensed in this State, or a hospital or medical service corporation authorized to do business in this State, either directly or through a subsidiary or affiliate, may organize and operate a health maintenance organization under the provisions of this chapter. Notwithstanding any other law to the contrary, any two or more insurance companies, hospital or medical service corporations, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance is deemed to include the providing of health care by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.

(b) Notwithstanding any contrary provision of laws pertaining to insurance or hospital or medical service corporations, an insurer or a hospital or medical service corporation may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. The enrollees of a health maintenance organization constitute a permissible group under such laws. Among other things, under such contracts, the insurer or hospital or medical service corporation may make benefit payments to health maintenance organizations for health care services rendered by providers.

**§ -13 Examinations.** (a) The commissioner may examine the affairs of any health maintenance organization or of any providers with whom such organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State but shall make such examination not fewer than once every three years.

(b) Every health maintenance organization and provider shall submit its books and records for examination and in every way facilitate the completion of the examination. In the event a health maintenance organization or the provider fails to comply with the directions of the commissioner, the commissioner may examine the affiliates of the health maintenance organization or provider to obtain the information. For the purpose of examinations, the commissioner may administer oaths to, and examine the officers and agents of, the health maintenance organization and the principals of providers concerning their business.

(c) The cost of examinations under this section shall be assessed against the health maintenance organization being examined and remitted to the commissioner for deposit into the insurance examiners revolving fund.

(d) In lieu of such examination, the commissioner may accept the report of an examination made by the commissioner or director of the department of health of another state.

**§ -14 Suspension, revocation, or denial of certificate of authority. (a)**

Any certificate of authority issued under this chapter may be suspended or revoked, and any application for a certificate of authority may be denied, if the commissioner finds that any of the conditions listed below exist:

- (1) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under section -2, unless amendments to such submissions have been filed with and approved by the commissioner;
- (2) The health maintenance organization does not provide or arrange for basic health care services;
- (3) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;
- (4) The health maintenance organization has failed to correct, within the time prescribed by subsection (c), any deficiency occurring due to the health maintenance organization's prescribed minimum net worth being impaired;
- (5) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
- (6) The continued operation of the health maintenance organization would be hazardous to its enrollees; or
- (7) The health maintenance organization has otherwise failed substantially to comply with this chapter.

(b) In addition to, or in lieu of, suspension or revocation of a certificate of authority pursuant to this section, the commissioner, after hearing, may levy an administrative fine upon the health maintenance organization in an amount not less than \$500 and not more than \$50,000 pursuant to section 431:3-221.

(c) The following shall pertain when insufficient net worth is maintained:

- (1) Whenever the commissioner finds that the net worth maintained by any health maintenance organization subject to this chapter is less than the minimum net worth required, the commissioner shall give written notice to the health maintenance organization of the amount of the deficiency and require the health maintenance organization to:
  - (A) File with the commissioner a plan for correction of the deficiency acceptable to the commissioner; and
  - (B) Correct the deficiency within a reasonable time, not to exceed sixty days, unless an extension of time, not to exceed sixty additional days, is granted by the commissioner. Such a deficiency shall be deemed an impairment, and failure to correct the impairment in the prescribed time shall be grounds for suspension or revocation of the certificate of authority or for placing the health maintenance organization in conservation, rehabilitation, or liquidation; and
- (2) Unless allowed by the commissioner, no health maintenance organization or person acting on its behalf, directly or indirectly, may renew, issue, or deliver any certificate, agreement, or contract of coverage in this State, for which a premium is charged or collected, when the health maintenance organization writing such coverage is impaired, and the fact of such impairment is known to the health maintenance organization or to such person. However, the existence of an impairment shall not prevent the issuance or renewal of a certificate, agreement, or

contract when the enrollee exercises an option granted under the plan to obtain a new, renewed, or converted coverage.

(d) A certificate of authority shall be suspended or revoked or an application for a certificate of authority denied, or an administrative penalty imposed, only after compliance with the requirements of this section.

(1) Suspension or revocation of a certificate of authority, denial of an application, or imposition of an administrative penalty pursuant to this section shall be by written order and shall be sent to the health maintenance organization or applicant by certified or registered mail. The written order shall state the grounds, charges, or conduct on which suspension, revocation, denial, or administrative penalty is based. The health maintenance organization or applicant, in writing, may request a hearing pursuant to section 431:2-308; and

(2) If the health maintenance organization or applicant requests a hearing pursuant to this section, the commissioner shall issue a written notice of hearing and send it to the health maintenance organization or applicant by certified or registered mail and to the director of labor and industrial relations stating:

(A) A specific time for the hearing, which may not be less than twenty nor more than thirty days after mailing of the notice of hearing; and

(B) A specific place for the hearing.

(e) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(f) When the certificate of authority of a health maintenance organization is revoked, such organization, immediately following the effective date of the order of revocation, shall proceed to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner, by written order, may permit such further operation of the organization as the commissioner may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

**§ -15 Rehabilitation, liquidation, or conservation of health maintenance organizations.** (a) Any rehabilitation, liquidation, or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner may apply for an order directing the commissioner to rehabilitate, liquidate, or conserve a health maintenance organization upon any one or more grounds set out in article 15 of chapter 431, or when in the commissioner's opinion, the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the general public. Enrollees shall have the same priority in the event of liquidation or rehabilitation as the law provides to policyholders of an insurer.

(b) For purpose of determining the priority of distribution of general assets, claims of enrollees and enrollees' beneficiaries shall have the same priority as established by article 15 of chapter 431, for policyholders and beneficiaries of insureds of insurance companies. If an enrollee is liable to any provider for services provided pursuant to and covered by the health care plan, that liability shall have the

status of an enrollee claim for distribution of general assets. Any provider who is obligated by statute or agreement to hold enrollees harmless from liability for services provided pursuant to and covered by a health care plan shall have a priority of distribution of the general assets immediately following that of enrollees and enrollees' beneficiaries as described herein, and immediately preceding the priority of distribution described in article 15 of chapter 431.

**§ -16 Summary orders and supervision.** (a) Whenever the commissioner determines that the financial condition of any health maintenance organization is such that its continued operation might be hazardous to its enrollees, creditors, or the general public, or that it has violated any provision of this chapter, the commissioner, after notice and hearing, may order the health maintenance organization to take such action as may be reasonably necessary to rectify such condition or violation, including but not limited to one or more of the following:

- (1) Reducing the total amount of present and potential liability for benefits by reinsurance or other method acceptable to the commissioner;
- (2) Reducing the volume of new business being accepted;
- (3) Reducing expenses by specified methods;
- (4) Suspending or limiting the writing of new business for a period of time;
- (5) Increasing the health maintenance organization's capital and surplus by contribution; or
- (6) Taking such other steps as the commissioner may deem appropriate under the circumstances.

(b) For purposes of this section, the violation by a health maintenance organization of any law of this State to which such health maintenance organization is subject shall be deemed a violation of this chapter.

(c) The commissioner is authorized, by rule, to set uniform standards and criteria for early warning that the continued operation of any health maintenance organization might be hazardous to its enrollees, creditors, or the general public and to set standards for evaluating the financial condition of any health maintenance organization, which standards shall be consistent with the purposes expressed in subsection (a).

(d) The remedies and measures available to the commissioner under this section shall be in addition to, and not in lieu of, the remedies and measures available to the commissioner under the provisions of article 15 of chapter 431.

**§ -17 Fees.** (a) The commissioner shall collect in advance the following fees:

- (1) For filing an application for a certificate of authority or amendment thereto, \$600; and
- (2) For all services subsequent to the issuance of a certificate of authority (including extension of the certificate of authority), \$400.

(b) All fees collected pursuant to this section and penalties collected pursuant to section -14 shall be remitted by the commissioner to the director of finance and shall be placed to the credit of the general fund.

**§ -18 Penalties and enforcement.** (a) The commissioner, in lieu of suspension or revocation of a certificate of authority, may impose an administrative fine pursuant to section -14(b).

(b) If the commissioner, for any reason, has cause to believe that any violation of this chapter has occurred or is threatened, the commissioner may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the



purpose of attempting to ascertain the facts relating to such suspected violation and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation. Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the commissioner may deem appropriate under the circumstances. However, unless consented to by the health maintenance organization, no order may result from a conference until the requirements of this section are satisfied.

(c) The commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this chapter. Any person aggrieved by an order of the commissioner under this section may obtain judicial review of the order in the manner provided for by chapter 91.

(d) In the case of any violation of the provisions of this chapter, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (c), the commissioner may institute a proceeding to obtain injunctive or other appropriate relief in any court of competent jurisdiction.

(e) Notwithstanding any other provisions of this chapter, if a health maintenance organization fails to comply with the net worth requirement of this chapter, the commissioner may take appropriate action to assure that the continued operation of the health maintenance organization will not be hazardous to its enrollees.

**§ -19 Statutory construction and relationship to other laws.** (a) Except as otherwise provided in this chapter, the insurance laws and hospital or medical service corporation laws shall not apply to the activities authorized and regulated under this chapter of any health maintenance organization granted a certificate of authority under this chapter. This chapter shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization granted a certificate of authority under this chapter shall not be deemed to be practicing medicine and shall be exempt from the provision of chapter 453 relating to the practice of medicine or chapter 460 relating to the practice of osteopathic medicine.

**§ -20 Filings and reports as public documents.** Notwithstanding chapter 92F and any other laws to the contrary, all applications and filings required under this chapter shall be treated as public, except for trade secrets or privileged or confidential quality assurance, commercial, or financial information; provided that any annual financial statement that may be required under section -5 shall be public.

**§ -21 Confidentiality of medical information.** Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this chapter, upon the express consent of the enrollee or applicant, pursuant to statute or court order for the production of evidence or the discovery thereof, or in the event of a claim or

litigation between such person and the health maintenance organization wherein such data or information is pertinent. A health maintenance organization shall be entitled to claim any statutory privileges against disclosure which the provider who furnished the information to the health maintenance organization is entitled to claim.

**§ -22 Acquisition of control of or merger of a health maintenance organization.** No person may make a tender for or a request or invitation for tenders of, enter into an agreement to exchange securities for, or acquire in the open market or otherwise, any voting security of a health maintenance organization or enter into any other agreement if, after the consummation thereof, that person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the health maintenance organization, and no person may enter into an agreement to merge or consolidate with or otherwise to acquire control of a health maintenance organization, unless, at the time any offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the health maintenance organization, information required by section 431:11-103(a)(1), (2), (3), (4), (5), and (12) and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner. Approval by the commissioner shall be governed by section 431:11-104(d).

**§ -23 Required provisions and benefits.** Notwithstanding any provision of law to the contrary, each policy, contract, plan, or agreement issued in the State after January 1, 1995, by health maintenance organizations pursuant to this chapter, shall include benefits provided in sections 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-116.5, and 431:10A-116.6 and chapter 431M.

**§ -24 Coordination of benefits.** (a) Health maintenance organizations are permitted, but not required to adopt provisions for coordination of benefits to avoid overinsurance and to provide for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.

(b) If health maintenance organizations adopt provisions for coordination of benefits, the provisions must be consistent with the coordination of benefits provisions that are in general use in the State for coordinating coverage between two or more group health insurance or health care plans."

**SECTION 2.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 3.** This Act shall take effect on January 1, 1996.

(Approved June 14, 1995.)

## ACT 180

H.B. NO. 1977

A Bill for an Act Relating to the Environment.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 340E-8, Hawaii Revised Statutes, is amended:

1. By amending subsection (a) to read as follows:

“(a) Any person who violates section 340E-7 shall be administratively or civilly penalized not more than \$25,000 per day of violation.”

2. By amending subsections (d) and (e) to read as follows:

“(d) The director may enforce this part in either administrative or judicial proceedings:

(1) Administrative. If the director determines that any person has violated or is violating any provision of this part, any rule adopted thereunder, or any variance, exemption, permit, or other written authorization issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease [and desist from] the violation, pay [a civil] an administrative penalty as specified in this section, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon [such] the request, the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within twenty-four hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind the director’s order as the director deems appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection. In any judicial proceeding to collect the administrative penalty imposed, the director need only show that:

(A) Notice was given;

(B) A hearing was held or the time granted for a hearing expired without a request for a hearing;

(C) The penalty was imposed; and

(D) The penalty remains unpaid.

(2) Judicial. The director may institute a civil action in any court of appropriate jurisdiction for injunctive and other relief to prevent violation of this part or any order or regulation issued pursuant to this part, impose and collect civil penalties, collect administrative penalties, or obtain other relief in addition to any other remedy provided for under this section.

(e) Any person who violates section 340E-6 shall be administratively or<sup>1</sup> civilly penalized not more than \$25,000 for each violation.”

SECTION 2. Section 342B-42, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the administrative penalty which shall be a government realization. In any proceeding to [recover] collect the administrative penalty imposed, the director need only show that:

(1) Notice was given;

- (2) A hearing was held or the time granted for requesting a hearing has run without such a request;
- (3) The administrative penalty was imposed; and
- (4) The penalty remains unpaid.”

SECTION 3. Section 342B-44, Hawaii Revised Statutes, is amended to read as follows:

“**[§342B-44]** **Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent any violation of this chapter, any rule adopted, condition of a permit, or variance issued pursuant to this chapter, without the necessity of prior revocation of the permit or variance, to impose and collect civil penalties, to collect administrative penalties, or obtain other relief. The court shall have the power to grant relief in accordance with the Hawaii Rules of Civil Procedure.”

SECTION 4. Section 342B-56, Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

“(a) After June 30, 1995, any person may commence a civil action on that person’s own behalf against:

- (1) Any person (including the State and the director) who is alleged to be in violation of this chapter, including any emission standard or limitation or any order issued by the director;
- (2) The director where there is alleged a failure to perform any act or duty under this chapter which is not discretionary; or
- (3) Any person who proposes to construct or constructs any new or modified major emitting facility without a required permit or who is alleged to be in violation of any condition of such permit.

This subsection shall not apply before April 1, 1996 to violations of permits related to agricultural burning; provided further that the governor may extend this deadline for an additional three months to accomplish the purposes of this Act.”

SECTION 5. Section 342D-1, Hawaii Revised Statutes, is amended to read as follows:

“**§342D-1 Definitions.** As used in this chapter, unless the context otherwise requires:

“Coastal waters” means all waters surrounding the islands of the State from the coast of any island to a point three miles seaward from the coast, and, in the case of streams, rivers, and drainage ditches, to a point three miles seaward from their point of discharge into the sea and includes those brackish waters, fresh waters, and salt waters that are subject to the ebb and flow of the tide.

“Complaint” means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule or order adopted pursuant to this chapter.

“Department” means the department of health.

“Director” means the director of health.

“Domestic sewage” is waste and wastewater from humans or household operations that:<sup>1</sup>

- (a) is discharged to or otherwise enters a treatment works; or
- (b) is of a type that is usually discharged to or otherwise enters a treatment works or an individual wastewater system.

Individual wastewater systems include cesspools, septic tanks, and household aerobic units. As used here “waste” means any liquid, gaseous, and solid substance, whether treated or not, and whether or not it pollutes or tends to pollute state waters, and “waste” excludes industrial and agricultural substances that are not combined with substances from humans or household operations. As used here “wastewater” means any liquid “waste,” as used above, whether treated or not.

“Drainage ditch” means that facility used to carry storm runoff only.

“Effluent” means any substance discharged into state waters, publicly owned treatment works, or sewerage systems, including, but not limited to, sewage, waste, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, and any liquid, gaseous, or solid substances.

“Effluent sources” include, but are not limited to, sewage outfalls, refuse systems and plants, water systems and plants, industrial plants, and contributors to publicly owned treatment works or sewerage systems.

“Industrial user” means a source of water pollutants into a publicly owned treatment works from any nondomestic source regulated under section 307(b), (c), or (d) of the Federal Water Pollution Control Act.

“New source” means any source of water pollution the construction of which is commenced after the adoption of rules prescribing a standard of performance which will be applicable to such source.

“Party” means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.

“Permit” means written authorization from the director to discharge waste or to construct, modify, or operate any water pollution source. A permit authorizes the grantee to cause or discharge waste or water pollution in a manner or amount, or to do an act, not forbidden by this chapter or by rules adopted under this chapter, but requiring review by the department.

“Person” means any individual, partnership, firm, association, public or private corporation, federal agency, the State or any of its political subdivisions, trust, estate, or any other legal entity.

“Pollution” means water pollution.

“Sewage sludge” means any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumping, Type III Marine Sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.

“Sewerage system” means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

“Standard of performance” means a standard for the control of the discharge of water pollutants which reflects the greatest degree of effluent reduction which the director determines to be achievable through application of the best demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of water pollutants.

“State waters” means all waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a water pollution control system are excluded.

“Treatment works” means any plant or other facility used for the purpose of controlling water pollution.

“Variance” means special written authorization from the director to cause or discharge waste or water pollution in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules adopted under this chapter.

“Waste” means sewage, industrial and agricultural matter, and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the waters of this State.

“Wastewater” means any liquid waste, whether treated or not, and whether animal, mineral, or vegetable including agricultural, industrial, and thermal wastes.

“Water pollutant” means dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste.

“Water pollution” means:

- (1) Such contamination or other alteration of the physical, chemical, or biological properties of any state waters, including change in temperature, taste, color, turbidity, or odor of the waters, or
- (2) Such discharge of any liquid, gaseous, solid, radioactive, or other substances into any state waters,

as will or is likely to create a nuisance or render such waters unreasonably harmful, detrimental, or injurious to public health, safety, or welfare, including harm, detriment, or injury to public water supplies, fish and aquatic life and wildlife, recreational purposes and agricultural and industrial research and scientific uses of such waters or as will or is likely to violate any water quality standards, effluent standards, treatment and pretreatment standards, or standards of performance for new sources adopted by the department.”

SECTION 6. Section 342D-4, Hawaii Revised Statutes, is amended to read as follows:

**“[§342D-4] Duties; rules.** In addition to any other power or duty prescribed by law and in this chapter, the director shall prevent, control, and abate water pollution in the State[.] and may control all management practices for sewage sludge and reclaimed water, whether or not such practices cause water pollution. Such management practices include treatment, processing, storage, transport, use and disposal. In the discharge of this duty, the director may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter. Any person heard at the public hearing shall be given written notice of the action taken by the department with respect to the rules.”

SECTION 7. Section 342D-6, Hawaii Revised Statutes, is amended to read as follows:

**“[§342D-6] Permits; procedures for.** (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for [such] permits shall be accompanied by plans, specifications, and [such] any other information [as] that it deems necessary in order [for it] to determine whether the proposed installation, alteration, or use will be in accord with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that [such] it will be in the public interest; provided that the permit may be subject to [such] any reasonable conditions [as] that the director may prescribe. The director may include conditions in permits or may issue separate permits for management practices for sewage sludge, whether or not such practices

cause water pollution. Such management practices include treatment, processing, storage, transport, use, and disposal. The director, on application, shall renew a permit from time to time for a term not exceeding five years if the director determines that [such is] it will be in the public interest. The director shall not deny an application for the issuance or renewal of a permit without affording the applicant an opportunity for a hearing in accordance with chapter 91.

(d) The director, on the director's own motion or the application of any person, may modify, suspend, [or] revoke, or revoke and reissue any permit if, after affording the permittee an opportunity for a hearing in accordance with chapter 91, the director determines that:

- (1) There is a violation of any condition of the permit; [or]
- (2) The permit was obtained by misrepresentation, or there was failure to disclose fully all relevant facts; [or]
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) [Such] It is in the public interest.

The public interest excludes any reason less stringent than the causes for permit modification, revocation, and termination, or revocation and reissuance identified in 40 Code of Federal Regulations section 122.62 or 122.64.

(e) The director shall ensure that the public [receive] receives notice of each application for a permit to control water pollution. The director may hold a public hearing before ruling on an application for a permit to control water pollution if the director determines [such] the public hearing to be in the public interest. In determining whether a public hearing would be in the public interest, the director shall be guided by 40 Code of Federal Regulations section 124.12(a).

(f) In determining the public interest regarding permit issuance or renewal, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, [and] any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director [may], by rule, may prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

[(d)] (g) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant's application so long as the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as part thereof."

SECTION 8. Section 342D-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director, in accordance with law, may enter and inspect any building or place to investigate an actual or suspected source of water pollution[.]; to investigate actual or suspected management practices for sewage sludge, whether or not such practices cause water pollution; to ascertain compliance or noncompliance with this chapter[.]; any rule or standard adopted by the department pursuant to this chapter[.]; or any permit or other approval granted by the department pursuant to this chapter[.]; and to make reasonable tests in connection therewith. Management practices include treatment, processing, storage, transport, use, and disposal."

SECTION 9. Section 342D-9, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take [such] any measures [as] that may be necessary to correct the violation and to give periodic progress reports[.];
- (2) May require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of[.]; and
- (3) May impose penalties as provided in section [342D-30] 342D-31 by sending<sup>1</sup> written<sup>1</sup> notice,<sup>2</sup> either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter after having been served notice of violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring that person to submit a written schedule within thirty days specifying the measures to be taken and the time within which such measures shall be taken to bring that person into compliance with this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter[.];
- (2) Shall accept or modify the submitted schedule within thirty days of receipt of [such] the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director[.];
- (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until [such time that] the director accepts the written schedule[.]; and
- (4) May impose penalties as provided in section [342D-30] 342D-31 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.”

2. By amending subsection (f) to read as follows:

“(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty which shall be a government realization.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice]:

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”



SECTION 10.<sup>3</sup> Section 342D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by the discharge of waste [or], any combination of discharges of waste, or any management practice that [which] requires immediate action, the governor or director, [with the approval of the governor and] without public hearing, may order any person causing or contributing to the discharge of waste to immediately reduce or stop such discharge, or to reduce, stop, or change the management practice, and [or the director] may take any and all other actions as may be necessary. [Such] The order shall fix a place and time, no<sup>2</sup> later than twenty-four hours thereafter, for a hearing to be held before the director. The management practices covered in this subsection are those for sewage sludge, whether or not such practices cause water pollution, and include treatment, processing, storage, transport, use, and disposal.”

SECTION 11.<sup>3</sup> Section 342D-11, Hawaii Revised Statutes, is amended to read as follows:

“[[§342D-11[]] Injunctive and other relief. The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent any violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court shall have power to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 12. Section 342D-30, Hawaii Revised Statutes, is amended to read as follows:

“**§342D-30 Civil penalties.** (a) Any person who violates this chapter or any rule shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this section shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized officer or employee of the department of any building, place, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$5,000 for each day of denial, obstruction, or hampering. Any action taken in court to impose or collect the penalty provided for in this [section] subsection shall be considered a civil action.”

SECTION 13. Section 342D-31, Hawaii Revised Statutes, is amended to read as follows:

“**§342D-31 Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342D-30.

- (b) Factors to be considered in imposing an administrative penalty include:
- (1) The nature and history of the violation and of any prior violations;
  - (2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;
  - (3) The opportunity, difficulty, and history of corrective action;

- (4) Good faith efforts to comply; and
- (5) Such other matters as justice may require.
- (c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.
- [(d) In any judicial proceeding to recover the administrative penalty imposed, the director need only show that:
- (1) Notice was given;
- (2) A hearing was held or the time granted for requesting a hearing has run without such a request;
- (3) The administrative penalty was imposed; and
- (4) The penalty remains unpaid.]”

SECTION 14. Section 342D-50, Hawaii Revised Statutes, is amended to read as follows:

“**[[§342D-50]] Prohibition.** (a) No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters except [as] in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director.

(b) No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director.

(c) No person, including any industrial user, shall discharge any water pollutant or effluent into a publicly owned treatment works or sewerage system in violation of:

- (1) A pretreatment standard established by the department or the publicly owned treatment works; or
- (2) A pretreatment condition in a permit issued by the department or a publicly owned treatment works.

(d) No person, including any public body, shall violate any rule adopted pursuant to this chapter or any permit or variance issued or modified pursuant to this chapter.”

SECTION 15. Section 342D-55, Hawaii Revised Statutes, is amended to read as follows:

“**[[§342D-55]] Recordkeeping and monitoring requirements.** The director may require:

- (1) Complete and detailed plans or reports, on existing works, systems, [or], plants, or management practices, and of any proposed addition to, modification of, or alteration of any such works, [system, or plant] systems, plants, or management practices, which [contains] contain the information requested by the director in the form prescribed by the director. Such plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner[;] and
- (2) The owner or operator of any effluent source [or], any discharger of effluent, or any person engaged in management practices to:
  - (A) Establish and maintain records;
  - (B) Make reports;
  - (C) Install, use, and maintain monitoring equipment or methods;
  - (D) Sample effluent [and], state waters, sewage sludge; and

(E) Provide such other information as the department may require. The management practices covered in this section are those for sewage sludge, whether or not such practices cause water pollution, and include treatment, processing, storage, transport, use, and disposal.”

SECTION 16. Section 342F-7, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating this chapter, [violating] any rule adopted pursuant to this chapter, or [violating] any condition of a permit or variance issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take [such] any measures [as] that may be necessary to correct the violation and to give periodic progress reports[.];
- (2) May require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of[.]; and
- (3) May impose penalties as provided in section [342F-9] 342F-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter after having been served notice of violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring that person to submit a written schedule within thirty days specifying the measures to be taken and the time within which [such] the measures shall be taken to bring that person into compliance with [the provisions of] this chapter, [the provisions of] any rule adopted pursuant to this chapter, or the conditions of a permit or variance issued pursuant to this chapter[.];
- (2) Shall accept or modify the submitted schedule within thirty days of receipt of [such] the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director[.];
- (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until [such time that] the director accepts the written schedule[.]; and
- (4) May impose penalties as provided in section [342F-9] 342F-11 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.”

2. By amending subsection (f) to read as follows:

“(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty which shall be a government realization.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice]:

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”

SECTION 17. Section 342F-9, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Any person who violates this chapter, any rule adopted pursuant to this chapter, other than vehicular noise control rules, or any permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control rules, shall be considered a civil action.

(c) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized officer or employee of the department of any building, place, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 18. Section 342F-11, Hawaii Revised Statutes, is amended to read as follows:

“**[§342F-11] Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter[,], or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342F-9(b)[.] and (c).

(b) Factors to be considered in imposing an administrative penalty include [the]:

- (1) The nature and history of the violation and of any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

(c) It is presumed that the violator’s economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary [is] shall be on the violator.

[In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.]”

SECTION 19. Section 342F-12, Hawaii Revised Statutes, is amended to read as follows:

“[[§342F-12]] Injunctive and other relief. The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent any violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court shall have power to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 20. Section 342H-7, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit issued pursuant to this chapter, the director may do any one or more of the following:

- (1) Issue an order assessing [a civil] an administrative penalty for any past or current violation;
- (2) Require compliance immediately or within a specified time [period]; and
- (3) Commence a civil action in the circuit court in the circuit in which the violation occurred or the person resides or maintains the person’s principal place of business for appropriate relief, including a temporary, preliminary, or permanent injunction[.], the imposition and collection of civil penalties, or other relief.

(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of a permit issued under this chapter, and shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with section [342H-9.] 342H-10.”

2. By amending subsection (e) to read as follows:

“(e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty which shall be a government realization.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice]:

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”

SECTION 21. Section 342H-9, Hawaii Revised Statutes, is amended to read as follows:

“**§342H-9 Penalties.** (a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized officer or employee of the department of any building, place, or vehicle which the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 22. Section 342H-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§342H-10] Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter[,] or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342H-9(a)[.] and (b).

(b) Factors to be considered in imposing an administrative penalty include [the]:

- (1) The nature and history of the violation and of any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

(c) It is presumed that the violator’s economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary [is] shall be on the violator.

[In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.]”

SECTION 23. Section 342H-11, Hawaii Revised Statutes, is amended to read as follows:

“**[§342H-11] Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent any violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court shall have power to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 24. Section 342J-2, Hawaii Revised Statutes, is amended to read as follows:

“**§342J-2 Definitions.** As used in this chapter, unless the context otherwise requires:

“Any state” means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Complaint” means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule or order adopted pursuant to this chapter.

“Department” means the department of health.

“Director” means the director of health or the director’s authorized agent.

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous or solid waste into or on any land or water so that hazardous or solid waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters.

“Financial responsibility” means a trust fund, surety bond, insurance, corporate guarantee, or letter of credit provided by owners or operators of hazardous waste treatment, storage, and disposal facilities to assure proper closure, post closure, corrective action, and compensation for injuries to people or damage to property.

“Generator” means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this chapter.

“Hazardous waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial existing or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Hazardous waste broker” means any person who:

- (1) Acts as an intermediary between:
  - (A) A generator and a transporter; or
  - (B) A generator and a person who treats, stores, or disposes of hazardous waste; or
  - (C) A generator and another broker;
 and
- (2) Performs one or more of the following:
  - (A) Mixes hazardous wastes of different United States Department of Transportation shipping descriptions by placing them into a single container or tank as defined in 40 Code of Federal Regulations Part 260 (provided that a broker who mixes hazardous waste must comply with all statutory and regulatory provisions applicable to generators);
  - (B) Packages or repackages hazardous waste;
  - (C) Labels, marks, or manifests hazardous waste;
  - (D) Performs waste characterization of hazardous waste; or
  - (E) Arranges the storage, treatment, transportation, disposal, or recycling of hazardous waste for a fee based upon the completion of the transaction.

“Hazardous waste management” means the systematic control over the generation, collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

“Hazardous waste management facility” or “facility” means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

“Household waste” means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds and day user recreation areas).

“Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of treatment, storage, or disposal.

“Operator” means the person responsible for the overall operation of a facility.

“Owner” means the person who owns the facility or part of the facility.

“Party” means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.

“Permit” means written authorization from the director for the owner or operator of a proposed or existing hazardous waste management facility to engage in the treatment, storage, or disposal of hazardous waste. A permit authorizes the owner or operator to treat, store, or dispose of hazardous waste in a manner or amount, or to do any act, not forbidden by this chapter or by rules adopted under this chapter, but requiring review by the department.

“Person” means any individual, partnership, firm, joint stock company, association, public or private corporation, federal agency, the State or any of its political subdivisions, any state and any of its political subdivisions, trust, estate, interstate body, or any other legal entity.

“Pollution” means hazardous waste pollution.

“RCRA” means the Resource Conservation and Recovery Act, as amended, 42 United States Code §§6901 to 6991i.

“Solid waste” means garbage, refuse, and other discarded materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, sludge from waste treatment plants and water supply treatment plants, and residues from air pollution control facilities and community activities, but does not include solid or dissolved material in domestic sewage, irrigation return flows, or industrial discharges which are subject to permit under chapter 342D.

“Storage” means the containment of hazardous waste, temporarily or for a period of years, in a manner which does not constitute disposal.

“Transporter” means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, water, or pipeline.

“Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or render it nonhazardous, less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. This term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.”

#### SECTION 25. Section 342J-7, Hawaii Revised Statutes, is amended:

##### 1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating any provisions of this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit issued pursuant to this chapter or section 3005 of RCRA, 42 United States Code [§] section 6925, the director may do one or more of the following:

- (1) Issue an order assessing [a civil] an administrative penalty for any past or current violation;
- (2) Require compliance immediately or within a specified time [period]; or
- (3) Commence a civil action in the circuit court in the circuit in which the violation occurred[,], or the person resides[,], or [the] maintains the person's principal place of business [exists] for appropriate relief, including a temporary, preliminary,<sup>1</sup> or permanent injunction[,], the imposition and collection of civil penalties, or other relief.



(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of any permit issued under section 3005 of RCRA, 42 United States Code [§] section 6925, by the Administrator of [U.S.] the United States Environmental Protection Agency or under section 342J-5 by the director, and shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with section [342J-9.] 342J-10.”

2. By amending subsection (e) to read as follows:

“(e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty which shall be a government realization.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice]:

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”

SECTION 26. Section 342J-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized representative of the director, or fails to provide information requested by [such] the representative under section 342J-6 shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 27. Section 342J-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§342J-10] Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter[, ] or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342J-9(a)[.] and (b).

(b) Factors to be considered in imposing an administrative penalty include [the]:

- (1) The nature and history of the violation and of any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

(c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary [is] shall be on the violator.

[In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.]”

SECTION 28. Section 342J-11, Hawaii Revised Statutes, is amended to read as follows:

**“§342J-11 Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to:

- (1) Address any release of hazardous waste or any hazardous waste constituent pursuant to section 342J-36; [and]
- (2) Prevent any violation of [any provision of] this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit adopted pursuant to this chapter, without the necessity of a prior revocation of the permit[.]; and
- (3) Impose and collect civil penalties, to collect administrative penalties, and obtain other relief.

The court shall have power to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 29. Section 342J-36, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whenever the director determines that there is or has been a release of hazardous waste or of a hazardous waste constituent into the environment from a hazardous waste management facility or site, the director may issue an order requiring corrective action to protect human health or the environment, or the director may commence a civil action for appropriate relief, including a temporary, preliminary, or permanent injunction[.], the imposition and collection of civil penalties, or other relief. For purposes of enforcement, failure to comply with an order issued pursuant to this chapter shall constitute a violation of a requirement of this chapter.”

SECTION 30. Section 342L-8, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any term or condition of a permit or variance issued pursuant to this chapter, the director may do one or more of the following:

- (1) Issue an order assessing [a civil] an administrative penalty for any past or current violation;
- (2) Issue an order requiring compliance immediately or within a specified time [period]; or
- (3) Commence a civil action in the circuit court in the circuit in which the violation occurred[.] or the person resides[.] or [the] maintains the person's principal place of business [exists] for appropriate relief, including a temporary, preliminary, or permanent injunction[.], the imposition and collection of civil penalties, or other relief.

(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of any permit or variance issued under this chapter, and shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with [sections 342L-10 and section 342L-11.”

2. By amending subsection (e) to read as follows:

“(e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice];

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”

SECTION 31. Section 342L-10, Hawaii Revised Statutes, is amended to read as follows:

“**§342L-10 Penalties.** (a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$25,000 for each individual tank for each day of each violation. Each day of each violation shall constitute a separate offense. In addition, any person who fails to comply with an order issued under this chapter within the time specified in the order shall be fined not more than \$25,000 for each day of noncompliance with the order. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) Any person who:

- (1) Denies, obstructs, or hampers the entrance, inspection, or conduct of release response activities by any duly authorized representative of the department at any building, place, site, facility, vehicle, or structure that the representative is authorized to enter, inspect, or at which the representative is authorized to conduct release response activities; or
- (2) Fails to provide information requested by the representative as required under section 342L-7;

shall be fined not more than \$500 per day of denial, obstruction, hindrance, or failure. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 32. Section 342L-11, Hawaii Revised Statutes, is amended to read as follows:

“**§342L-11 Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter[, ] or by rules adopted under this chapter, the director may impose by order the penalties specified in section 342L-10.

(b) Factors to be considered in imposing an administrative penalty include [the];

- (1) The nature and history of the violation and of any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;

(3) The opportunity, difficulty, and history of [compliance.] corrective action;

(4) Good faith efforts to comply; and

(5) Any other matters that justice may require.

(c) It shall be presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary shall be on the violator.

[In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held, or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.]”

SECTION 33. Section 342L-12, Hawaii Revised Statutes, is amended to read as follows:

“**§342L-12 Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent or stop any violation of this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court may grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 34. Section 342N-6, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which that person shall be required to take [such] any measures [as] that may be necessary to correct the violation, and to give periodic progress reports[.];
- (2) May require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of[.]; and
- (3) May impose penalties as provided in section [342N-8] 342N-9 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter, after having been served notice of violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring that person to submit a written schedule within thirty days specifying the measures to be taken and the time within which [such] the measures shall be taken to bring that person into compliance with [the provisions of] this chapter, [the provisions of] any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter[.];

- (2) Shall accept or modify the submitted schedule within thirty days of receipt of [such] the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director[.];
- (3) Shall issue to the alleged violator or violators a cease [and desist] order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until [such time that] the director accepts the written schedule[.]; and
- (4) May impose penalties as provided in section [342N-8] 342N-9 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing [such] the violation.”

2. By amending subsection (f) to read as follows:

“(f) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty which shall be a government realization.

In any proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice]:

- (1) Notice was given[, a];
- (2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;
- (3) The administrative penalty was imposed[.]; and [that the]
- (4) The penalty remains unpaid.”

SECTION 35. Section 342N-8, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

2. By amending subsection (c) to read:

“(c) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized officer or employee of the department of any facility, place, storage tank, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 36. Section 342N-9, Hawaii Revised Statutes, is amended to read as follows:

“[**§342N-9**] **Administrative penalties.** In addition to any other administrative or judicial remedy provided by this chapter[,] or by rules adopted under this

chapter, the director is authorized to impose by order the penalties specified in section 342N-8(a)[.] and (c).

(b) Factors to be considered in imposing an administrative penalty include [the]:

- (1) The nature and history of the violation and of any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

(c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary [is] shall be on the violator.

[In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.]”

SECTION 37. Section 342N-10, Hawaii Revised Statutes, is amended to read as follows:

“**[[§342N-10]] Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent a violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter, without the necessity of a prior revocation of the permit[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court shall have power to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 38. Section 342P-5, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

“(a) If the director determines that any person has violated or is in violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and may contain an order specifying a reasonable time during which the person shall be required to take [such] any measures [as] that may be necessary to correct the violation, and to give periodic progress reports;
- (2) May require the alleged violator or violators to appear before the director for a hearing at a time and place specified in the notice to answer the charges complained of; and
- (3) May impose penalties as provided in [part II] section 342P-21 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit issued pursuant to this chapter, after having been served notice of the violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring the person to submit a written schedule

- within thirty days specifying the measures to be taken and the time within which the measures will be taken to bring the person into compliance with this chapter, any rule adopted pursuant to this chapter, or the conditions of any permit issued pursuant to this chapter;
- (2) Shall accept or modify the submitted schedule within sixty days of receipt of the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director;
  - (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until [such time as] the director accepts the written schedule; or
  - (4) May impose penalties as provided in [part II] section 342P-21 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.”

2. By amending subsection (f) to read as follows:

“(f) If the amount of any administrative penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the State to [recover] collect the [civil] administrative penalty, which shall be a government realization.”

SECTION 39. Section 342P-20, Hawaii Revised Statutes, is amended to read as follows:

“[[§342P-20]] **Civil penalties.** (a) Any person who violates this chapter, any rule adopted by the department under this chapter, or any condition in a permit issued under this chapter, shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) Any person who denies, obstructs, or hampers the entrance [and] or inspection by any duly authorized officer or employee of the department of any building or place that the officer or employee is authorized to enter and inspect, shall be fined not more than \$5,000. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 40. Section 342P-21, Hawaii Revised Statutes, is amended to read as follows:

“[[§342P-21]] **Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter or rules adopted under this chapter, the director may impose by order the penalties specified in section 342P-20.

(b) Factors to be considered in imposing an administrative penalty shall include [the]:

- (1) The nature and history of the violation and any prior violations[, and the];
- (2) The economic benefit, if any, resulting from the violation;
- (3) The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Any other matters that justice may require.

## ACT 181

(c) It shall be presumed that the violator's economic and financial conditions allow payment of the penalty; the burden of proof to the contrary shall be on the violator.

(d) In any judicial proceeding to [recover] collect the [civil] administrative penalty imposed, the director need only show that [notice];

(1) Notice was given[, a];

(2) A hearing was held or the time granted for requesting a hearing [has run] expired without [such] a request[, the civil] for a hearing;

(3) The administrative penalty was imposed[.]; and [that the]

(4) The penalty remains unpaid.”

SECTION 41. Section 342P-26, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-26]]~~ **Injunctive and other relief.** The director may institute a civil action for injunctive and other relief in any court of competent jurisdiction to prevent the violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance[.], to impose and collect civil penalties, to collect administrative penalties, or to obtain other relief. The court may grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 42. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date. Rules adopted pursuant to the chapters being amended shall remain in effect until the rules are amended, repealed, or replaced.

SECTION 43. All acts passed by the legislature during this Regular Session of 1995, whether enacted before or after the effective date of this Act, shall be amended to conform to this Act; unless such acts specifically provide that this Act is to be amended.

SECTION 44. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 45. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

### Notes

1. Should be underscored.
2. So in original.
3. Section redesignated.

## ACT 181

H.B. NO. 2000

A Bill for an Act Relating to Wages and Hours of Employees on Public Works.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 104, Hawaii Revised Statutes, is amended by designating sections 104-1 to 104-4 as part I and inserting a title before section 104-1 to read as follows:



## **“PART I. GENERAL PROVISIONS”**

SECTION 2. Chapter 104, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **“PART II. ADMINISTRATION AND ENFORCEMENT**

**§104-21 Governmental contracting agency responsibilities.** The governmental contracting agency shall:

- (1) Pay or cause to be paid, within sixty days of a determination made by the director, directly to laborers and mechanics or to the director, from any accrued payment withheld under the terms of the contract, any wages or overtime compensation found to be due to laborers or mechanics under the terms of the contract subject to this chapter, or any penalty assessed;
- (2) Order any contractor to pay, within sixty days of a determination made by the director, any wages or overtime compensation which the contractor, or any of the contractor's subcontractors, should have paid to any laborer or mechanic under any contract subject to this chapter, or any penalty assessed which the contractor, or any of the contractor's subcontractors, should have paid to the director; and
- (3) Report to the director any violation of this chapter, the rules adopted thereunder, or the terms of the contract subject to this chapter.

**§104-22 Investigation.** (a) The department may conduct investigations to determine compliance with this chapter. The department may enter the job site, inspect books and records of any contractor, either during or after the performance of any contract, or subpoena the books and records.

(b) If any contractor interferes with or wilfully evades any investigation or inspection by the department, the governmental contracting agency, on receipt of written notice from the director of the interference or wilful evasion, shall withhold from the contractor all further payments until the director has notified the governmental contracting agency in writing that the interference or wilful evasion has ceased.

**§104-23 Notification of violation.** (a) When the department, either as a result of a report by a contracting agency or as a result of the department's own investigation, finds that a violation of this chapter or of the terms of the contract subject to this chapter has been committed, the department shall issue a notification of violation to the contractor or subcontractor involved.

(b) A notification of violation shall be final and conclusive twenty days after a copy was mailed to the violator, unless within the twenty-day period the violator files a written notice of appeal with the director.

(c) A hearing on the written notice of appeal shall be held by a hearings officer appointed by the director in conformance with chapter 91.

Hearings on appeal shall be held within sixty days of the notice of appeal and a decision shall be rendered by the director within sixty days after the conclusion of the hearing, stating the findings of fact and conclusions of law. The director may extend the due date for decision for good cause; provided that all parties agree.

**§104-24 Violations; penalties.** (a) Where the department finds that a first violation of this chapter has been committed, the department shall assess a penalty of not more than \$1,000 for each offense.

(b) Where a second or third violation occurs, whether on the same contract or another, within two years of the first violation, the director, after proper notice and opportunity for hearing, shall order the person or firm in violation:

- (1) If it be a second violation, to pay a penalty of ten per cent of the contract amount; or
- (2) If it be a third violation, to be suspended as prescribed in section 104-25.

**§104-25 Suspension.** (a) The director shall suspend a person or firm from doing any work on any public work of a governmental contracting agency for a period of three years if the person or firm:

- (1) Commits a third violation of this chapter within two years from the date of the first violation;
- (2) Fails to make the person's or firm's employees whole for wages or overtime pay due under the contract; or
- (3) Fails to pay any penalty assessed.

(b) The director shall immediately notify the comptroller and the auditor or director of finance of the county of any suspension order.

(c) On application by the suspended person or firm, no less than one year from the date of suspension, the director, after a hearing, may shorten the term of suspension; provided that the contractor or subcontractor has made the contractor's or subcontractor's employees whole for wages or overtime pay due and has paid to the director all penalties assessed under this chapter.

(d) No contract shall be awarded to the person or firm so suspended or to any firm, corporation, partnership, or association in which the person or firm has an interest, direct or indirect, until three years have elapsed from the date of suspension, unless the period of suspension is reduced as herein provided. Any contract awarded in violation of this subsection shall be void.

**§104-26 Judicial review.** (a) Any party to an appeal under this chapter may obtain judicial review of the decision on the appeal in the manner provided in chapter 91.

(b) Any suspension or dismissal of any complaint under this chapter shall be subject to appeal in circuit court by the aggrieved party, under section 91-14 and rule 72 of the Hawaii Rules of Civil Procedure.

**§104-27 Liability.** If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics for wages or overtime compensation due under this chapter, and the contractor has failed to pay the wages or overtime compensation, the contractor and the contractor's sureties shall be liable to the laborers and mechanics in the amount of the unpaid wages and overtime compensation due, and in an additional equal amount as liquidated damages. However, any claim for liquidated damages, insofar as the surety or sureties are concerned, shall not be paid until the claims of all other creditors have been satisfied.

**§104-28 Civil action.** (a) Action to recover unpaid wages or overtime compensation may be maintained in any court of competent jurisdiction by any one or more laborers or mechanics for and on behalf of oneself or themselves and others similarly situated.

(b) The court, in its action and in addition to any judgment awarded to the plaintiff or plaintiffs, shall allow reasonable attorney's fee and costs of the action to be paid by the defendant.

(c) It shall be no defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or overtime compensation or voluntarily made refunds.

(d) When a written request is filed by any laborer or mechanic with the director claiming unpaid wages or overtime compensation under this chapter, the director, after receiving an assignment from the laborer or mechanic, may bring an action in any court of competent jurisdiction to recover the amount of the claim. The consent of any laborer or mechanic to the bringing of such action by the director, unless the action is dismissed without prejudice on motion of the director, shall constitute a waiver by the laborer or mechanic of any right of action the laborer or mechanic may have under subsection (a). Any amount recovered by the director before suit and accepted by the laborer or mechanic as payment in full shall constitute a waiver of any rights under this chapter.

**§104-29 Rules.** Subject to chapter 91, the director shall adopt reasonable rules for determining the prevailing wages, enforcement, administration, and general purposes of this chapter. These rules shall have the force and effect of law.

**§104-30 Application of this chapter to contracts entered into without regard to other laws.** The fact that a contract is or was entered into without regard to chapter 103D, or upon a cost-plus-a-fixed fee basis, or cost-plus-a-fixed percentage basis, or without advertising for proposals, shall not render this chapter inapplicable to the contract, if otherwise this chapter would be applicable.

**§104-31 Effect on other laws.** Neither this chapter nor any rule or other action under this chapter shall supersede or impair any minimum wage or maximum hour law or any authority otherwise granted by law to provide for the establishment of specific minimum or other wage rates.

**§104-32 Suspension during emergency.** During a national emergency declared by the President or the Congress of the United States, or a state of emergency declared by the governor, the governor, by executive order in writing, may suspend this chapter.

**§104-33 Inspection.** (a) If work performed in accordance with this chapter, in excess of eight hours in any day or on a Saturday, Sunday, or legal holiday of the State, requires inspection by the State or any political subdivision thereof, the inspection shall be conducted by the State or a political subdivision, as the case may be.

(b) In such event, it shall be lawful, notwithstanding any other provision of law to the contrary, for the State or any political subdivision thereof to alter the normal working hours of public employees, as may be needed for these purposes, and to pay these public employees for all hours worked in excess of eight hours per day or on a Saturday, Sunday, or legal holiday of the State.

**§104-34 Submission of collective bargaining agreement to the director.** Parties to a collective bargaining agreement covering classes of laborers or mechanics, which are included in the prevailing wage determinations made pursuant to this chapter, shall submit a copy of the agreement to the director within five days after execution of the agreement. The terms of the agreement shall be kept confidential by the director upon the request of the parties to the collective bargaining agreement and shall be used only pursuant to this chapter."

SECTION 3. Section 104-1, Hawaii Revised Statutes, is amended to read as follows:

**“§104-1 Definitions.** As used in this chapter, the following words and phrases shall have the following meanings:

- (1) “Basic hourly rate” means the hourly wage paid to a laborer or mechanic for work performed during nonovertime hours, but shall not include the cost to an employer of furnishing fringe benefits whether paid directly or indirectly to the laborer or mechanic as provided in paragraph [(6);] (7);
- (2) “Construction” includes alteration, repair, painting and decorating;
- (3) “Department” means the department of labor and industrial relations;
- [(3)] (4) “Director” means the director of labor and industrial relations of the State;
- [(4)] (5) “Governmental contracting agency” means the State, any county and any officer, bureau, board, commission, or other agency or instrumentality thereof;
- [(5)] (6) “Overtime compensation” means compensation based on one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in paragraph [(6);] (7);
- [(6)] (7) “Wages”, “rate of wages”, “wage rates”, “minimum wages” and “prevailing wages” mean the basic hourly rate and the cost to an employer of furnishing a laborer or mechanic with fringe benefits, including but not limited to health and welfare benefits, vacation benefits, and pension benefits, whether paid directly or indirectly to the laborer or mechanic.”

SECTION 4. Section 104-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Where the director, either as a result of a report by a contracting agency or as a result of the director’s own investigation, finds that a first violation of this chapter or of the terms of the contract subject to this chapter has been committed, the director shall issue a notification of violation to the contractor or subcontractor involved and assess a penalty of not more than \$1,000 for each offense. Enforcement of this subsection shall be subject to the following:

- (1) A notification of violation shall be final and conclusive twenty days after a copy has been mailed to the violator unless within the twenty day period the violator files a written notice of appeal with the director. The director shall notify the labor and industrial relations appeals board of the pendency of the appeal; and
- (2) Any party to the appeal may obtain judicial review of the appeals decision in the manner provided in chapter 91. In any court proceeding, every party to the appeal shall be a respondent, including the director. The proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases.

Where a second or third violation occurs, whether on the same contract or another, within two years of the first violation, the director shall serve a written complaint on the person or firm involved. If, after proper notice and opportunity for hearing, the appeals board finds that the person or firm has knowingly violated this chapter, the rules adopted thereunder, or the terms of the contract subject to this chapter, the appeals board shall order the person or firm, if it be a second violation, to pay a penalty of [not more than] ten per cent of the total contract amount, or if it be

a third violation the appeals board shall order the person or firm to be suspended from doing any work on any public work of a governmental contracting agency for a period of three years. If any person or firm, after notification of violation, or after assessment of any penalty under this chapter, fails to make the person's or firm's employees whole for wages or overtime pay due under the contract, or fails to pay any penalty assessed, the appeals board may suspend the person or firm as herein provided. However, on application by the suspended person or firm, no less than one year from the date of suspension, the appeals board may, after hearing, shorten the term of suspension; provided that the contractor or subcontractor has made the contractor's or subcontractor's employees whole for wages or overtime pay due and has paid to the director all penalties assessed under this chapter. The director shall immediately notify the comptroller and the auditor or director of finance of the county of any suspension order.

Any suspension order or order dismissing any complaint under this subsection shall be subject to appeal under chapter 91 and rule 72 of the Hawaii rules of civil procedure by the party aggrieved, whether the person or firm or the director, to the circuit court for trial de novo on the facts and the law. On complaint by the director as in a civil action, the circuit court shall enforce any suspension order made by the appeals board by injunction against any contractor, subcontractor, or officer or employee of the State, or any county. Any other judicial review with respect to a second or third violation shall be conducted in the manner provided in subsection (b)(2)."

SECTION 5. Sections 104-5 to 104-11, Hawaii Revised Statutes, are repealed.

SECTION 6. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. This Act shall take effect upon its approval, except that sections 1, 2, 3, 5, 6, and 7 shall take effect on July 1, 1996.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 182**

H.B. NO. 2023

A Bill for an Act Relating to Criminal Injuries Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of "relative" to read as follows:

"“Relative” means a victim’s spouse, parent, grandparent, [stepfather, step-mother,] stepparent, child, grandchild, stepchild, brother, sister, half brother, half sister, stepbrother, stepsister, or spouse’s parents;”

SECTION 2. Section 351-13, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Notwithstanding any other provision, the commission may delegate to the administrator the authority to sign any order [approved by the commission].

(c) The commission [may] shall assign cases to the administrator for determination of eligibility and any order of compensation, [if:

- (1) The case can be adjudicated appropriately on the basis of available records and documents; and
- (2) The applicant has waived a hearing before the commission.]”

SECTION 3. Section 351-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In the event any private citizen is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after June 6, 1967, or any state resident is injured or killed by any act or omission of any other person after July 1, 1989, in another state not having a compensation program eligible for federal funding under 42 United States Code §10601, et seq., under which the state resident may receive compensation, which act or omission is within the description of the crimes enumerated in section 351-32, the criminal injuries compensation commission in its discretion, upon an application, may order the payment of compensation in accordance with this chapter:

- (1) To or for the benefit of the victim;
- (2) To any person responsible for the maintenance of the victim, where that person has suffered pecuniary loss or incurred expenses as a result of the victim’s injury or death;
- (3) In the case of the death of the victim, to or for the benefit of any one or more of the dependents of the deceased victim; or
- (4) To a [parent of an adult deceased victim or to an adult son or daughter of a deceased victim, where the parent or adult son or daughter] relative of a deceased victim where the relative has incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the victim’s injury and death.”

SECTION 4. Section 351-33, Hawaii Revised Statutes, is amended to read as follows:

“**§351-33 Award of compensation.** The criminal injuries compensation commission may order the payment of compensation under this part for:

- (1) Expenses actually and reasonably incurred [as a result] during the period of the injury or death of the victim;
- (2) Loss to the victim of earning power as a result of total or partial incapacity;
- (3) Pecuniary loss to the dependents of the deceased victim;
- (4) Pain and suffering to the victim; and
- (5) Any other pecuniary loss directly resulting from the injury or death of the victim which the commission determines to be reasonable and proper.”

SECTION 5. Section 351-52, Hawaii Revised Statutes, is amended to read as follows:

**“§351-52 Award of compensation.** The criminal injuries compensation commission may order the payment of compensation under this part for:

- (1) Expenses actually and reasonably incurred [as a result] during the period of the injury of the private citizen;
- (2) Pain and suffering to the private citizen;
- (3) Loss to the private citizen of earning power as a result of total or partial incapacity; and
- (4) Pecuniary loss to the private citizen directly resulting from damage to the citizen’s property.”

SECTION 6. This Act does not affect the rights and duties that were matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 183

H.B. NO. 2089

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The fund shall be used for the purpose of providing employee-beneficiaries and dependent-beneficiaries with a health benefits plan and a long-term care benefits plan; provided that the fund may be used for other expenses necessary to effectuate these purposes; and provided further that any rate credit or reimbursement from any carrier or self-insured plan or any earning or interest derived therefrom shall be [used in addition to such purposes to:

- (1) Finance the employee’s and state and county contributions for the respective benefit plan from which such moneys are derived; and
- (2) Improve the benefits of the respective plan from which such moneys are derived.] returned to the State or the county for deposit into the appropriate general fund if the moneys are returned from a plan that provides health benefits to retirees or the surviving spouses of deceased retirees or employees killed in the performance of their duty whose coverage is financed in whole or in part by the State or by a county.”

SECTION 2. This Act shall have retroactive application to any rate credit, refund, or reimbursement made to the fund prior to the effective date of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

A Bill for an Act Relating to the Waikiki Aquarium.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Waikiki aquarium, although officially governed by the board of regents of the University of Hawaii, is currently operating as a quasi-private institution with the assistance of the friends of the Waikiki aquarium, a private nonprofit entity which generates a significant portion of the aquarium's revenues in support of its operations. Nationwide, forty per cent of all zoos and aquariums are operated by nonprofit organizations in contract with government agencies. The legislature further finds that the Waikiki aquarium fulfills the intent of Article XI of the State Constitution by providing instructional public exhibits, programs, and research emphasizing ways to conserve and protect Hawaii's natural beauty and resources for the benefit of present and future generations.

The legislature further finds that the Waikiki aquarium's present agreement with the research corporation of the University of Hawaii will expire on June 30, 1995, leaving the aquarium with no system for retaining twenty-five full-time non-state employees, or sixty-two per cent of the permanent staff currently working at the aquarium. A 1982 opinion rendered by the Hawaii attorney general's office, indicates that the University of Hawaii has the authority to enter into a contract with an outside entity for the management and operation of the Waikiki aquarium. A similar system has already been implemented by the department of land and natural resources for the operation of Iolani Palace.

The purpose of this Act is to establish the Waikiki aquarium as the state aquarium under the ownership and direction of the University of Hawaii, and to make provisions to allow for the transition of aquarium management to the Friends of the Waikiki Aquarium, a nonprofit entity under contract with the University of Hawaii.

SECTION 2. Part II of Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§304- State aquarium.** (a) The Waikiki aquarium is established and designated as the official state aquarium.

(b) The University of Hawaii may contract with a private nonprofit entity for the operation and management of the state aquarium; provided that the entity is a private nonprofit corporation established solely to manage and improve the exhibits and facilities; conduct education, research, volunteer, fund-raising, and membership programs; and operate concessions of the state aquarium.

(c) The status conferred by subsections (a) and (b) shall not impinge on the ownership of land and improvements which shall remain with the University of Hawaii. All board of regents' policies regarding the use of University of Hawaii facilities shall apply to the state aquarium."

SECTION 3. Section 304-31, Hawaii Revised Statutes is amended to read as follows:

**"§304-31 [Aquarium and marine laboratory:] State aquarium; site.** All those certain pieces or parcels of land situated at Waikiki, city and county of Honolulu, used as an aquarium and more fully described in copy survey furnished number 11528 as all of lots 114 to 118 inclusive and portions of lots 113 and 119 of the Kapiolani park lots as described in Executive Order No. 1817, are set aside for



public purposes, to wit: for the purposes of [an aquarium and marine biological laboratory] the state aquarium under the direction of the board of regents of the University of Hawaii. The board shall establish and at all times maintain upon such lands [an aquarium for] the state aquarium for public programs, education, research, and the exhibition to the public of [fishes and other forms of marine life.] the aquatic life of Hawaii and other regions. It shall also establish and at all times maintain there a marine biological laboratory.”

SECTION 4. Section 304-33, Hawaii Revised Statutes, is amended to read as follows:

“**§304-33 [Waikiki] State aquarium special fund.** There is established a special fund into which shall be deposited all revenues derived from [concessions and] all admission fees [and charges from public agencies and private persons] collected in conjunction with the operation of the [Waikiki] state aquarium. Moneys deposited in this fund shall be expended for the operation of the [Waikiki] state aquarium. The special fund shall not be subject to sections 36-27 and 36-30 relating to special fund reimbursements to the state general fund.”

SECTION 5. Section 304-32, Hawaii Revised Statutes, is amended to read as follows:

“**§304-32 Aquarium admission fee.** The board of regents may charge the public a fee for admission to the aquarium[; provided that:

- (1) Children under the age of twelve shall be admitted free; and
- (2) Persons over the age of sixty shall be admitted free if on an excursion or tour sponsored by a senior citizens group].

All funds collected from fees charged in accordance with this section shall be deposited in the [Waikiki] state aquarium special fund.”

SECTION 6. **State aquarium transition.** (a) Notwithstanding any other law to the contrary, the current management arrangements with the research corporation of the University of Hawaii and the University of Hawaii foundation shall continue until a new management arrangement is approved by the board of regents or until June 30, 1997, whichever occurs earlier.

(b) All permanent full-time general fund positions currently held by state employees presently assigned to the Waikiki Aquarium shall remain as such; provided that in the event a management arrangement with a nonprofit corporation is approved by the board of regents pursuant to this section, and section 304- , Hawaii Revised Statutes, the employees shall remain as such under the supervision of that nonprofit corporation; and provided further that any proposed changes shall be subject to chapter 89, Hawaii Revised Statutes, and the applicable collective bargaining agreements.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Real Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-83.2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [Proxies may be given to the board of directors; provided that the proxy form shall contain a box wherein the owner may indicate that the owner wishes the vote to be shared with each board member receiving an equal percentage. Proxy forms which are not marked shall be considered a choice by the owner that the vote be made on the basis of the preference of the majority of the board.] All proxy forms, at the minimum, shall contain boxes wherein the owner may indicate that the owner wishes the proxy:

- (1) To be given for quorum purposes only;
- (2) To be given to a specific individual whose name is printed by the owner next to this box;
- (3) To be given to the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or
- (4) To be given to those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

A proxy form which does not have a box marked shall be considered a proxy for quorum purposes only.”

SECTION 2. Section 514A-83.3, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-83.3 Membership list.** The resident manager or managing agent or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the resident manager or managing agent or board of directors a duly executed and acknowledged affidavit stating that the list [(A)] (1) will be used by such owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to association matters, and [(B)] (2) shall not be used by such owner or furnished to anyone else for any other purpose. No board of directors shall adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to association matters on the common elements by apartment owners; provided that a board of directors may adopt rules regulating reasonable time, place, and manner of such solicitations or distributions, or both. A board of directors may prohibit commercial solicitations.”

SECTION 3. Section 514A-96, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board of directors of the association shall make available a copy of the annual audit to each apartment owner at least thirty days prior to the annual meeting which follows the end of the fiscal year. The board shall provide upon all official proxy forms a box wherein the owner may indicate that the owner wishes to

obtain [either a summary of the annual audit report, or an unabridged] a copy of the annual audit report. The board shall not be required to submit [a summary of the annual audit report or] a copy of the annual audit report to the owner if the proxy form is not marked. If the annual audit has not been completed by that date, the board shall make available:

- (1) An unaudited year end financial statement for the fiscal year to each apartment owner at least thirty days prior to the annual meeting; and
- (2) The annual audit to all owners at the annual meeting, or as soon as the audit is completed, whichever occurs later.

If the association's fiscal year ends less than two months prior to the convening of the annual meeting, the year to date unaudited financial statement may cover the period from the beginning of the association's fiscal year to the end of the month preceding the date on which notice of the annual meeting is mailed."

SECTION 4. The Real Estate Commission shall establish a plan for recodifying chapter 514A, Hawaii Revised Statutes, to make it easier to understand and follow, and submit a report on the plan to the legislature not later than twenty days prior to the convening of the regular session of 1996. The plan shall include but not be limited to:

- (1) Who should actually study and work on the recodification and who should be consulted on the recodification efforts;
- (2) What particular areas should be researched or considered for statutory amendments; and
- (3) Estimating costs and resources needed, sources of funding and examining the possibility of using the condominium management education fund.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1995.)

## ACT 186

S.B. NO. 288

A Bill for an Act Relating to Hunters and Fishermen.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§183D- Harassment of hunters; prohibition.** (a) No person shall intentionally prevent or attempt to prevent the lawful taking of game by a person licensed pursuant to section 183D-21 by:

- (1) Placing the person's self in a location in which human presence may affect the behavior of game to be taken or the feasibility of taking such game;
- (2) Creating a visual, aural, olfactory, or physical stimulus to affect the behavior of game to be taken;
- (3) Affecting the condition or placement of personal property intended for use in the taking; or

(4) Obstructing the person's access to areas in which the person intends to lawfully take game.

(b) No person shall enter or remain upon public lands or waters, or upon private lands or waters, without permission of the owner or the owner's agent, with intent to violate this section.

(c) The maximum penalty for violation of subsection (a) or (b) is a fine of \$500, thirty days imprisonment, or both."

SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§188- Harassment of fishermen; prohibition.** (a) No person shall intentionally prevent or attempt to prevent the lawful taking of fish by a person licensed pursuant to section 188-50 by:

(1) Placing the person's self in a location in which human presence may affect the behavior of fish to be taken or the feasibility of taking such fish;

(2) Creating a visual, aural, olfactory, or physical stimulus to affect the behavior of fish to be taken;

(3) Affecting the condition or placement of personal property intended for use in the taking; or

(4) Obstructing the person's access to areas in which the person intends to lawfully take fish.

(b) No person shall enter or remain upon public lands or waters, or upon private lands or waters, without permission of the owner or the owner's agent, with intent to violate this section.

(c) The maximum penalty for violation of subsection (a) or (b) is a fine of \$500, thirty days imprisonment, or both."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 187**

S.B. NO. 639

A Bill for an Act Relating to Historic Preservation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6E-5.5, Hawaii Revised Statutes, is amended to read as follows:

**"[[]§6E-5.5[[] The Hawaii historic places review board; creation; powers; appointments; composition.** (a) There is created a review board, to be designated the Hawaii historic places review board, for the Hawaii register of historic places and the national register of historic places which shall meet the requirements of federal law. The board shall be placed within the department of land and natural resources for administrative purposes and shall consist of ten members to be appointed and removed by the governor as provided in section 26-34. The board

shall include one professionally qualified member of each of the following disciplines: archeology, architecture, history, and sociology. In addition, there shall be one person knowledgeable in traditional Hawaiian society and culture.

(b) The review board shall:

- (1) Order and enter historic properties into the Hawaii register of historic places on the basis of their value to Hawaii's heritage;
- (2) Evaluate and, when appropriate, recommend the nomination of historic properties to the national register of historic places;
- (3) Review the state survey of historic properties undertaken in accordance with this chapter;
- (4) Review the content of the state historic preservation plan developed in accordance with this chapter;
- (5) Elect a chairman and a vice-chairman and adopt such rules as are necessary for the purposes of this section;
- (6) Maintain the Hawaii register of historic places, including all those listed on the national register of historic places, and a program of notification and publication regarding properties on the registers.

(c) The members of the review board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) The department's determinations made pursuant to section 6E-8 may be appealed to the review board."

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended to read as follows:

**"§6E-8 Review of effect of proposed state projects.** (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence.

[If the concurrence of the department is not obtained within ninety days after the filing of a request with the department, the agency or officer seeking to proceed with the project] The department is to provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor who may request the Hawaii advisory council on historic preservation to report or who may take<sup>1</sup> action as the governor deems best in overruling or sustaining the department.<sup>2,"</sup>

SECTION 3. Section 6E-42, Hawaii Revised Statutes, is amended to read as follows:

**"§6E-42 Review of proposed projects.** (a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties or burial

sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.

(b) The department shall inform the public of any project proposals submitted to it under this section which are not otherwise subject to the requirement of a public hearing or other public notification."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

Notes

1. Prior to amendment "such" appeared here.
2. Subsections (b) and (c) missing.

ACT 188

S.B. NO. 995

A Bill for an Act Relating to Private Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 296-1, Hawaii Revised Statutes, is amended by amending the definition of "teacher" to read:

““Teacher” means a person whose duties in the public educational system are primarily teaching or instruction of students or related activities centered primarily on students and who is in close and continuous contact with students and shall include, but not be limited to, classroom teachers, school librarians, counselors, registrars, and special education teachers.”

SECTION 2. Chapter 297, Hawaii Revised Statutes, is amended by:

1. Amending its title to read as follows:

**“PERSONNEL OF PUBLIC [AND PRIVATE] SCHOOLS”**

2. Amending section 297-1 to read as follows:

**“§297-1 Definition, school.** For the purpose of this part [the word], “school” includes every academic and noncollege type of school[, whether] under governmental supervision [or otherwise, except sabbath schools which convene once each week].”

SECTION 3. Chapter 298, Hawaii Revised Statutes, is amended by:

1. Amending section 298-1 to read:

**“§298-1 Public, private schools.** All academic and noncollege type schools established and maintained by the department of education in accordance with law are public schools. All other academic and noncollege type schools [established and conducted in compliance with law] are private schools, irrespective of the hours during which the sessions take place.”

2. Amending section 298-19 to read:

**“§298-19 Records of pupils; release from attendance.** All schools[, either public or private,] shall keep a correct register of the names, sex, age, and nationality, as far as ascertainable, date of entering school, and the places of residence of the children attending their respective schools. No school shall grant a release to any child under eighteen years of age, who is registered as attending the child’s school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of the child is given in writing with the facts and reasons therefor. The register shall be carefully preserved, and as often as the department of education shall direct, the register or a true copy thereof shall be filed in the office of the department.”

3. Amending section 298-20 to read:

**“§298-20 Transfer to another school.** No school[, either public or private,] shall receive any child under eighteen years of age, who has attended another school of the same class in the same district, unless the child produces to the school to be entered, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one district desiring to enter a school in another district, may be received or admitted upon producing a certificate of release from the school last attended in the other district.”

SECTION 4. Section 298-6, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 298-7, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 189**

S.B. NO. 1461

A Bill for an Act Relating to Developmental Disabilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-13, Hawaii Revised Statutes, is amended to read as follows:

**“§26-13 Department of health.** (a) The department of health shall be headed by a single executive to be known as the director of health.

There shall be, within the department of health, an advisory board to be known as the board of health, which shall advise the director of health on matters within the jurisdiction of the department of health. The board of health shall consist of eleven voting members appointed by the governor as provided in section 26-34 and shall include the director of social services as an ex officio nonvoting member.

The appointed members shall include at least one resident of each of the major counties including the county of Kalawao. The appointed members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

The department shall administer programs designed to protect, preserve, care for, and improve the physical and mental health of the people of the State. Without limit to the generality of the foregoing, the programs shall include the administration and enforcement of matters and laws of public health of the State, including [the program for Waimano home and for] the state hospital, but excluding assistance and care for the indigent and the medically indigent.

(b) The functions and authority heretofore exercised by the board of health (excluding assistance and care for the indigent and the medically indigent) and the department of institutions with respect to [Waimano home and] the state hospital and the dental health treatment function of the department of public instruction as heretofore constituted are transferred to the department of health established by this chapter.

The governor shall define and differentiate dental health treatment from dental health instruction and shall provide for the gradual transfer of any personnel within the definition of dental health treatment to the department of health. This section shall not be construed to require the transfer from the department of education to the department of health of any dental hygienist having a teacher's certificate and employed by the department of public instruction immediately prior to November 25, 1959."

SECTION 2. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person who:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- [ (2) Has been committed pursuant to section 333F-9 or 333F-10;
- (3) (2) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- [ (4) (3) Is or has been diagnosed as having a significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect.”

SECTION 3. Section 333F-1, Hawaii Revised Statutes, is amended by amending the definition of “individually appropriate” to read as follows:

““‘Individually appropriate’ means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan[.] that is person-centered and community-based.”

SECTION 4. Section 333F-2, Hawaii Revised Statutes, is amended to read as follows:



**“§333F-2 Developmental disabilities system.** (a) The department [of health] shall develop [and], lead, administer, coordinate, monitor, evaluate, and set direction for a comprehensive system of [programs] supports and services for persons with developmental disabilities or mental retardation within the limits of state or federal resources allocated or available for the purposes of this chapter.

The department’s responsibility for persons with developmental disabilities or mental retardation [, including Waimano training school and hospital and community services,] shall be under one administrative unit for the purpose of coordination, monitoring, evaluation, and delivery of services. Not later than June 30, 1998, all programs and services falling under this chapter shall be provided in the community, including services presently provided at Waimano training school and hospital. When the private sector does not provide or is not able to provide the services, the department shall provide the services. Clients at Waimano training school and hospital shall be placed into community-based programs provided appropriate support services are available. The department shall convene a panel not later than August 1, 1995, to create a plan to provide services in the community and to ensure that the transition of Waimano training school and hospital residents to the community will be client-centered, taking into consideration the health, safety, and happiness of the residents and the concerns of their families. The panel shall consist of but not be limited to consumers, families, representatives from the private sector, employees and employee representatives, professionals, representatives of the University of Hawaii affiliate program, and representatives of the state planning council on developmental disabilities.

(b) The department [may] shall ensure the provision of an array of individually appropriate services and care to persons with developmental disabilities or mental retardation through the utilization of existing resources within the community, through coordination with [programs] supports and services provided under other federal, state, or county acts, and through specific funding when no other resources are available[.] within the limits of state and federal resources allocated or available for the purpose of this chapter. The department shall not supplant or duplicate services provided under other federal, state, or county acts.

(c) [Programs of] Supports and services the department [may] shall administer include, but shall not be limited to:

- (1) Early identification and evaluation of persons with developmental disabilities or mental retardation;
- (2) Development, planning, and implementation in coordination with other federal, state, and county agencies, of service programs for persons with developmental disabilities or mental retardation;
- (3) Development and provision of service programs in the public or private sectors through chapter 42D, for persons with developmental disabilities or mental retardation;
- (4) Establishment of a continuum of comprehensive services and residential alternatives in the community to allow persons with developmental disabilities or mental retardation to live in the least restrictive, individually appropriate environment;
- (5) Development and implementation of a program for [single entry] single-entry access by persons with developmental disabilities or mental retardation to services provided under this chapter as well as referral to, and coordination with, services provided in the private sector or under other federal, state, or county acts, [including case management,] and the development of an individualized service plan by an interdisciplinary team;

- (6) Collaborative and cooperative services with public health and other groups for programs [of prevention of] to prevent developmental disabilities or mental retardation;
- (7) Informational and educational services to the general public and to lay and professional groups;
- (8) Consultative services to the judicial branch of government, educational institutions, and health and welfare agencies whether [such] the agencies are public or private;
- (9) Provision of community residential alternatives for persons with developmental disabilities or mental retardation, including group homes and homes meeting ICF/MR standards;
- (10) Provision of care at the skilled nursing level or in a skilled nursing facility, as individually appropriate;
- [(10)] (11) Provision of other programs, services, or facilities necessary to provide a continuum of care for persons with developmental disabilities or mental retardation; [and]
- (12) Provision of case management services independent of the direct service provider; and
- [(11)] (13) Development and maintenance of respite services in the community for persons with developmental disabilities or mental retardation.

(d) Provisions for [programs] supports and services shall be limited to the amount of resources allocated or available for the purposes of this chapter.

(e) The department shall maximize its funds for community services using such funds as state matching funds for Title XIX programs, other governmental finance participation programs, and private finance programs as necessary and when possible. Only those individuals eligible for community services but not eligible for medicaid waiver services or other federally reimbursed programs or for whom such services are not appropriate or not available based on their individual service plan shall receive services and supports with one hundred per cent state funds."

SECTION 5. Section 333F-6, Hawaii Revised Statutes, is amended to read as follows:

**"[§333F-6] Application and assessment for services; individualized service plans.** (a) The department [may develop and] shall administer an application and assessment system for persons with developmental disabilities or mental retardation[.], and shall determine eligibility for services or supports within thirty working days of receipt of an application. If the department determines that the person is eligible for services or supports under this chapter within the limits of federal or state resources available for the purposes of this chapter, the department, after due consideration is afforded the preferences of the person with developmental disabilities or mental retardation, the person's parents if a minor, or legal guardian, shall refer that person to appropriate programs within ten working days of the determination; an individualized service plan for the person shall be prepared by an interdisciplinary team for the person, and the department may provide case management services to the person.

(b) The procedure for assessment of the person and the elements of the individualized service plan shall be [as] described in rules adopted by the department pursuant to chapter 91. The individualized service plan shall be in writing and shall include, at a minimum, the nature of the needs of the person, treatment and care goals, and specific services to be offered to the person to attain these goals.

(c) The department shall keep waiting lists of all individuals who are eligible for services and supports, but for whom services and supports have not been provided for any reason, and shall report annually to the legislature the numbers of

persons waiting for services and supports and the reasons for the lack of services and supports.”

SECTION 6. Section 333F-7, Hawaii Revised Statutes, is amended to read as follows:

**“[§333F-7] Provision of services.** Based upon the individualized service plan, the department [shall], as may be required, shall refer the person to services provided by the department under this chapter, to services provided under other federal or state laws, or to services provided by appropriately licensed private agencies.”

SECTION 7. Section 333F-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Persons with developmental disabilities or mental retardation shall have the following rights:

- (1) To receive the least restrictive, individually appropriate services, including a program of activities outside the residence in accordance with the person’s individualized service plan;
- (2) To reside in the least restrictive, individually appropriate residential alternative located as close as possible to the person’s home community within the State;
- (3) To the extent it is individually appropriate[,] as decided after due consideration afforded the preferences of the person with developmental disabilities or mental retardation, to:
  - (A) Interact with [nondisabled] persons without disabilities in a non-treatment, nonservice-oriented setting;
  - (B) Live with, or in close proximity to [nondisabled], persons[;] without disabilities; and
  - (C) Live in a setting which closely approximates those conditions available to [nondisabled] persons without disabilities of the same age;
- (4) To reasonable access to review medical, service, and treatment files and to be informed of diagnoses;
- (5) To participate in the development of the individualized service plan, if able to participate, or to be represented by a parent, guardian, or other representative as appropriate;
- (6) To receive a copy of the person’s individualized service plan; and
- (7) To privacy and confidentiality, to the extent possible, in connection with services provided to the person.”

SECTION 8. Section 333F-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“[§333F-8.5] Advocacy agency for [developmentally disabled and mentally ill] persons[.] with developmental disabilities and mental illness.** (a) The purpose of this section is to comply with federal law, which mandates the states to provide advocacy services to [developmentally disabled and mentally ill] persons with developmental disabilities and mental illness in order to receive federal funds.

(b) The governor may designate an entity or agency to carry out the purposes of this section.

(c) The entity or agency designated by the governor shall have access to all records of any [developmentally disabled or mentally ill] person[,] with developmental disabilities or mental illness, to the extent required by federal law.

(d) The entity or agency so designated by the governor shall provide those advocacy services to [developmentally disabled and mentally ill] persons with developmental disabilities or mental illness as required by federal law. All departments and agencies of the State[,] and the judiciary[,] shall cooperate with the entity or agency so designated to carry out the purposes of this section.”

SECTION 9. Section 333F-13, Hawaii Revised Statutes, is amended to read as follows:

**“§333F-13 Payments for care and treatment of persons receiving services; liability.** A parent, guardian of the property, or other person liable for the support of any person receiving services under this chapter [may] shall be required to pay [such sums as may be determined by the department] for the care and treatment of the person. The parent or guardian of the property of a minor receiving services under this chapter shall be liable for [such] the care and treatment until the person [admitted] has reached the age of majority. The liability of a guardian of the property of a person under this section shall be limited to the estate of the ward and shall not be recoverable out of the individual assets of the guardian. Every person receiving services under this chapter and any property of the person’s estate not exempt from execution shall be liable for the expense of the person’s care and treatment. The attorney general, whenever requested by the director, shall take [such] any steps [as] that may be appropriate, by civil action if necessary, to enforce any liability established by this section. The attorney general may designate any appropriate county attorney to act in the attorney general’s behalf in any enforcement proceeding.

The department, with the approval of the governor and from the funds appropriated to the department for the care and treatment of persons with developmental disabilities or mental retardation, may transfer from time to time to the department of human services [such] any amounts [as] that may be requested by the department of human services to match federal funds available under Title XIX of the Social Security Act to assist any indigent or medically indigent persons to pay for the care and treatment of any person receiving services under this chapter. The department may expend federal funds so received for the purposes of this chapter.”

SECTION 10. Section 333F-19, Hawaii Revised Statutes, is amended to read as follows:

**“[§333F-19] Limitation of liability.** The responsibilities of the department to carry out this chapter shall be limited to the resources available to carry out [the provisions of] this chapter[,] in a prudent manner. When [such] these resources are exhausted, no action may be brought by, or on behalf of, any person or organization in any court to compel the provision of further services.”

SECTION 11. Section 333F-20, Hawaii Revised Statutes, is amended to read as follows:

**“[§333F-20] Standards for services.** The department shall require appropriate standards of services to be met by its own services or contractual services including residential, day treatment, and other related programs. These standards, [including those for intermediate care facility services in facilities for the

mentally retarded or persons with related conditions shall,] wherever applicable and appropriate, shall conform to or exceed federal standards.”

SECTION 12. Section 333F-21, Hawaii Revised Statutes, is amended to read as follows:

**“§333F-21 Provision of services; family and caregiver support.** The director [may] within the limits of state and federal resources allocated or available for the purposes of this chapter shall provide [such] any services [as] that may be necessary to maintain and enhance care giving in community-based homes for persons with developmental disabilities. For the purposes of this section, “family and caregiver support” means a flexible and varied network of support which does not supplant community resources, and which is capable of providing for the individual families caring for persons with developmental disabilities. [Such] These services may include:

- (1) In-home and out-of-home respite services for families and care providers;
- (2) The purchase of adaptive equipment such as bath chairs and special positioning chairs not covered by health insurance or other resources;
- (3) Counseling services for families of care providers concerning stresses and feelings about caring for persons with developmental disabilities;
- (4) Special supply purchases such as diapers and special clothing required by persons with developmental disabilities;
- (5) Homemaker and chore services;
- (6) Transportation services not available through existing resources in the community;
- (7) Specialized therapy services for persons with developmental disabilities not available through insurance, medicaid, or other resources;
- (8) Case management to help families and care providers coordinate and access services available to persons with developmental disabilities; and
- (9) Provision, without regard to chapter 42D, of modifications to dwelling units to enable persons with developmental disabilities with sensory limitation or mobility problems to reside in community homes which require adaptive and safety alterations such as the installation of ramps and porch lifts, bars and hand rails, widening of doorways, removal of other architectural barriers, and the enlargement of bath facilities to allow the movement [of] and ensure the safety of the person with developmental disabilities; provided that [there]:
  - (A) There shall be an agreement between the care provider and the department to ensure continued care in the home where the modification is provided; and [provided further that modification]
  - (B) Modification costs shall be limited to the amount of funds appropriated for the program for any individual client.”

SECTION 13. Section 571-50, Hawaii Revised Statutes, is amended to read as follows:

**“§571-50 Modification of decree, rehearing.** Except as otherwise provided by this chapter, any decree or order of the court may be modified at any time.

At any time during supervision of a child the court may issue notice or other appropriate process to the child if the child is of sufficient age to understand the nature of the process, to the parents, and to any other necessary parties to appear at a

hearing on a charge of violation of the terms of supervision, for any change in or modification of the decree or for discharge. The provisions of this chapter relating to process, custody, and detention at other stages of the proceeding shall be applicable.

A parent, guardian, custodian, or next friend of any child whose status has been adjudicated by the court, or any adult affected by a decree of the court, [may] at any time may petition the court for a rehearing on the ground that new evidence, which was not known or not available through the exercise of due diligence at the time of the original hearing and which might affect the decree, has been discovered. Upon a satisfactory showing of [such] this evidence, the court shall order a new hearing and make [such] any disposition of the case [as] that the facts and the best interests of the child warrant.

A parent, guardian, or next friend of a child whose legal custody has been transferred by the court to an institution, facility, agency, or person may petition the court for modification or revocation of the decree, on the ground that [such] the legal custodian has wrongfully denied application for the release of the child or has failed to act upon it within a reasonable time, or has acted in an arbitrary manner not consistent with the welfare of the child or the public interest. An institution, facility, agency, or person vested with legal custody of a child may petition the court for a renewal, modification, or revocation of the custody order on the ground that [such] the change is necessary for the welfare of the child or in the public interest. The court may dismiss the petition if on preliminary investigation it finds [it] the petition without substance. If the court is of the opinion that the decree should be reviewed, it shall conduct a hearing on notice to all parties concerned, and may enter an order continuing, modifying, or terminating the decree.

Notwithstanding the foregoing provisions of this section the court's authority with respect to the review, rehearing, renewal, modification, or revocation of decrees, judgments, or orders entered in the hereinbelow listed classes of proceedings shall be limited by any specific limitations set forth in the statutes governing [such] these proceedings or in any other specifically applicable statutes or rules. [Such] These proceedings are as follows:

- (1) Annulment, divorce, separation, and other proceedings under chapter 580;
- (2) Adoption proceedings under chapter 578;
- (3) Paternity proceedings under chapter 584;
- (4) Termination of parental rights proceedings under this chapter; and
- [(5)] (5) Waimano training school and hospital commitment proceedings under chapter 333F;
- (6)] (5) State hospital commitment proceedings under chapter 334.

A decree, judgment, or order committing a child to the care of the director of [social] human services shall be reviewable under this section at the instance of others other than duly authorized representatives of [such] the department only after a lapse of thirty days following the date of the decree, judgment, or order, and thereafter only at intervals of not less than one year.

Notwithstanding this section the court shall not conduct a rehearing of any petition, filed under section 571-11(1), which, following a hearing, has been denied or dismissed."

SECTION 14. Section 333F-4, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 333F-9, Hawaii Revised Statutes, is repealed.

SECTION 16. Section 333F-10, Hawaii Revised Statutes, is repealed.

SECTION 17. Section 333F-12, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 333F-14, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 333F-15, Hawaii Revised Statutes, is repealed.

SECTION 20. Section 333F-16, Hawaii Revised Statutes, is repealed.

SECTION 21. Section 560:5-312D, Hawaii Revised Statutes, is repealed.

SECTION 22. Act 178, Session Laws of Hawaii 1990, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon approval[, and shall be repealed on June 30, 1995].”

SECTION 23. The director of health shall cease to be guardian of persons incapacitated as defined in section 560:5-101, Hawaii Revised Statutes, or persons with developmental disabilities or mental retardation and transfer current appointee guardianships to other appropriate persons or agencies by June 30, 1998.

SECTION 24. The department of health shall submit annual reports to the legislature describing the status of the plan as developed pursuant to chapter 333F-2, Hawaii Revised Statutes, as amended no later than twenty days before the convening of the regular sessions of 1996, 1997, and 1998, and a final report in 1999.

SECTION 25. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 26. This Act shall take effect upon its approval, except that sections 1, 2, 13, 14, 15, 16, 17, 18, 19, and 20 shall take effect on June 30, 1998. The provision of case management services, as required under section 4 of this Act, shall take effect on June 30, 1996.

(Approved June 15, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 190**

S.B. NO. 1521

A Bill for an Act Relating to Health Care Data Discovery.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there are increasing demands for the public accountability of the medical profession from consumers, corporate purchasers of health care, and publicly supported health programs. Consumer advocates, health care providers, health insurance companies, and governmental entities also want information related to quality and costs of care provided by both hospitals and physicians in order to make informed purchasing decisions. In order to encourage the proper use of data collected for specific research and outcomes studies, planning, and decision making, safeguards are needed to protect the confidentiality and misuse of data. The purpose of this Act is to safeguard the use of physician-specific aggregate data by deeming this data not subject to discovery or admission into evidence.

## ACT 191

SECTION 2. Chapter 622, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§622- Health care data discovery.** Where health care data submitted to either a public or private organization for the purpose of aggregate treatment outcomes, trends, or cost analysis, or public reporting, that identifies or reasonably could be used to identify specific physicians, health care professionals, or individual patients, that portion of the data shall not be subject to discovery or admission into evidence in any civil or administrative proceeding involving the organization. Information, documents, or records made in the regular course of business by a hospital or other provider of health care are not to be construed as immune from discovery or use in any civil or administrative proceeding merely because they were presented to an organization for aggregate analysis.”

SECTION 3. Section 622-51, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Health care data” means information submitted for outcomes, trends, or cost analysis, and research or informed policy and decision making relating to health care costs, mortality, morbidity, and treatment outcomes including but not limited to the:

- (1) Date of admission and date of discharge;
- (2) Patient discharge status;
- (3) Principal and secondary diagnoses;
- (4) Principal and secondary procedures;
- (5) Total charge segregated by service, procedures, facility, drugs, and medical supplies used; and
- (6) Total payment reimbursed to the health care professional or provider.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 191

S.B. NO. 1770

A Bill for an Act Relating to Administrative Process for Child Support Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576E-8, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-8 Action by agency upon request for hearing.** Upon receipt of a hearing request, the agency [shall] may contact the parties and attempt to reach an agreed disposition. If no agreed disposition can be obtained, the matter shall be referred to a hearings officer for contested case proceedings.”

SECTION 2. Section 576E-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



“(a) A true copy of the administrative order, along with a true copy of the return of service, shall be filed [by the agency] in the office of the clerk of the circuit court in the circuit where the order was issued[.], or in the office of the clerk of the circuit court in the circuit where a previously established support order was filed. Upon filing, the order shall have all the force and effect of a final order or decree of the circuit court.”

SECTION 3. Section 576E-16.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Enforcement of the support order [may] shall also include [child support arrearages and reimbursement of Aid to Families with Dependent Children moneys, where such order provides a monthly payment plan for these established debts.] an order for the withholding of income, or a portion thereof, in an amount adequate to ensure that past due payments and payments which will become due in the future under the terms of the support order will be paid.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

## ACT 192

H.B. NO. 1485

A Bill for an Act Relating to Liquor Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-61, Hawaii Revised Statutes, is amended to read as follows:

“**§281-61 Renewal.**<sup>1</sup> (a) Other than for good cause, the renewal of an existing license shall be granted upon the filing of an application; provided that if [complaints]:

- (1) Complaints from the public[, reports];
- (2) Reports from the commission’s investigators[, and the adjudications];
- or
- (3) Adjudications of the commission or the liquor control adjudication board,

indicate that noise created by patrons departing from the premises disturbs residents on the street or of the neighborhood in which the premises are located, or that noise from the premises or adjacent related outdoor areas under the licensee’s control such as parking lots or lanais exceed standards contained in state or county noise [or vibration] codes and intrudes into nearby residential units, the commission may withhold the issuance of a renewed license until corrective measures meeting the commission’s approval are taken.

(b) The commission may, at the time of renewal or at any time, revoke, suspend, or place conditions or restrictions on any license issued under this chapter for the purpose of preventing activities within the licensed premises or adjacent areas under the licensee’s control that are potentially injurious to the health, safety, and welfare of the public including but not limited to criminal activity, including

drug dealing, drug use, or prostitution, upon petition of the administrator of the appropriate county agency, proper notice to the licensee, and a hearing before the commission pursuant to chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

**Note**

1. Prior to amendment "Renewals" appeared here.

**ACT 193**

H.B. NO. 1849

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150A-2, Hawaii Revised Statutes, is amended:

1. By adding two new definitions to be appropriately inserted and to read as follows:

"Algae" means any plant containing chlorophyll, which lacks true roots, stems, and leaves, and typically inhabits moist habitats, except those algae on or in humans or animals in Hawaii and those in or on processed foods, beverages, or pharmaceuticals, and those in certain microbial products as specified by rule.

"Protozoa" means any nonphotosynthetic eukaryotic organisms, either unicellular or composed of a group of more or less identical cells, generally motile by means of appendages or movements of the cell itself at some or all stages of their life cycle, except those protozoa on or in humans or animals in Hawaii, those in or on processed foods, beverages, or pharmaceuticals, and those in certain microbial products as specified by rule."

2. By amending the definitions of "bacteria", "fungus", "inspect", "passed", and "virus" to read as follows:

"Bacteria" means any [unicellular microorganism in the class Schizomycete, exhibiting both plant and animal characteristics, and including the three varieties of bacillus, coccus and spirillum, including agents of Rickettsia] prokaryotic or archaeobacterial organism, except those bacteria on or in [living man] humans or [animal] animals in Hawaii [and], those in or on processed foods, beverages,<sup>1</sup> or pharmaceuticals[.], and those in certain microbial products as specified by rule.

"Fungus" means all nonchlorophyll-bearing thallophytes, [including rusts, smuts, mildews, molds and yeasts,] except those fungi on or in [living man] humans or [animal] animals in Hawaii [and], those on or in processed [food,] foods, beverages, or pharmaceuticals[.], and those in certain microbial products as specified by rule.

"Inspect" means to examine material to ascertain the presence or absence of quarantine pests[.] and to otherwise determine compliance with the provisions of this chapter or any rule adopted under this chapter.

“Passed” means the clearance status for entry given an article for import after inspection [and] or quarantine requirements have been met.

“Virus” means any of a class of [filterable,] noncellular submicroscopic [pathogenic agent,] obligate parasite, chiefly nucleoprotein in composition but often reducible to crystalline form, [and typically inert except when in contact with certain living cells,] except those viruses on or in [living man,] humans, or [animal] animals in Hawaii [and], those on or in processed [food,] foods, beverages, or pharmaceuticals[.], and those in certain microbial products as specified by rule.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 15, 1995.)

**Note**

1. Comma should be underscored.

**ACT 194**

H.B. NO. 1884

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201E-2, Hawaii Revised Statutes, is amended:

1. By adding a new definition to be appropriately inserted and to read as follows:

““Household member” means a person who:

- (1) Is a co-applicant; or
- (2) Will reside in the dwelling unit purchased from the corporation.”

2. By amending the definition of “qualified resident” to read as follows:

““Qualified resident” means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased or rented under this chapter;
- (4) In the case of the purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; or in the case of a rental, demonstrates an ability to pay rent as determined by the corporation and meets any additional criteria established by the corporation for the respective rental housing development for which the applicant is applying; and
- (5) Meets the following qualifications:
  - (A) Is a person who either oneself or together with spouse or household member, does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land; and

- (B) Is a person whose spouse or household member does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71;

provided that for purchasers of market-priced units in an economically integrated housing project, the term "qualified resident" means a person who is a citizen of the United States or a resident alien; is domiciled in the State and shall physically reside in the dwelling unit purchased; is at least eighteen years of age; and meets other qualifications as determined by the developer."

SECTION 3.<sup>1</sup> New statutory material is underscored.

SECTION 4.<sup>1</sup> This Act shall take effect upon its approval.

(Approved June 15, 1995.)

Note

1. So in original.

ACT 195

S.B. NO. 385

A Bill for an Act Relating to Welfare Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-34, Hawaii Revised Statutes, is amended to read as follows:

**"§346-34 Frauds, penalties.** (a) Any recipient who buys or disposes of real property or any person who knowingly aids or abets a recipient in the purchase or sale of real property without the consent of the department of human services shall be guilty of fraud.

(b) If, at any time while the recipient of public assistance is receiving [such] public assistance, the recipient's living requirements are reduced and the recipient wilfully fails to report the reduction within thirty days from the date of the reduction to the department, or the recipient acquires from any source real property, funds, income, or other resources and wilfully fails to report the amount [of same] acquired together with the source of the resources to the department within thirty days of receipt of [same,] the resources, or prior to spending or otherwise disposing of all or any portion of the [same,] resources, the recipient shall be guilty of fraud and shall be subject to the penalties provided by this section.

(c) No person shall knowingly obtain or attempt to obtain, or aid or abet another person in obtaining or attempting to obtain, any food commodity under a food distribution program or any food stamp or coupon under a food stamp plan, to which the person or the other person is not entitled to receive or use under any law, or under any rule adopted pursuant to section 346-14(10) or chapter 91.

(d) No person shall knowingly give, sell, trade, or otherwise dispose of to another person not entitled to receive or use the same pursuant to any law, or pursuant to any rule adopted pursuant to section 346-14(10) or chapter 91:

- (1) Any food commodity received under a food distribution program;
- (2) Any food stamp or coupon received under a food stamp plan; or

(3) Any food commodity received wholly or partially in exchange for a food stamp or coupon received under a food stamp plan.

(e) No person shall knowingly buy or give any other consideration in exchange for any food stamp or coupon issued under a food stamp plan except in compliance with any law or any rule adopted pursuant to section 346-14(10) or chapter 91.

[(e)] (f) No person shall knowingly obtain or attempt to obtain emergency assistance under section 346-65 to which the person is not entitled. No person shall knowingly aid or abet another person in obtaining or attempting to obtain emergency assistance to which that other person is not entitled. No person shall expend emergency assistance granted to the person for other than the purpose approved by the department to eliminate or alleviate the emergency situation.

[(f)] (g) No person shall knowingly transfer assets from that person's name to another [person] person's or entity's name for the purpose of qualifying for public assistance under this chapter or chapter 346D. It shall be prima facie evidence of such a transfer if there was a transfer of assets for less than fair market value of the assets within the federally required time period, or "lookback" period, from the date of the application for public assistance.

[(g)] (h) Any person convicted under this section shall be guilty of a misdemeanor[.]; provided that a person convicted under subsection (d)(2) or (e) for an offense involving food stamps or coupons with a value which exceeds \$300 shall be guilty of a class C felony; provided further that a person convicted under subsection (d)(2) or (e) for an offense involving food stamps or coupons with a value which exceeds \$20,000 shall be guilty of a class B felony. Any portion of assistance obtained by any fraudulent device, and any assistance paid after receipt of resources which have not been reported to the department as [herein] required in this section shall be recoverable by the State for the use of the department as a debt due the State, or, restitution of the amount may be ordered by the court following conviction.

[(h)] (i) The term "recipient" includes any person to whom a grant of public assistance is made by direct payment, and any person for whose use and benefit a grant of public assistance is made by payment to a relative or other person. Prosecution under this section shall not be considered an exclusive remedy but shall be in addition to any other criminal, civil, or administrative remedy or sanction authorized by law."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1995.)

A Bill for an Act Relating to Personnel Within the Division of Consumer Advocacy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 269-52, Hawaii Revised Statutes, is amended to read as follows:

**“§269-52 Division of consumer advocacy; personnel.** There shall be a division of consumer advocacy within the department of commerce and consumer affairs to provide administrative support to the director of commerce and consumer affairs acting in the capacity of consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapters 76 and 77, may define the executive administrator’s powers and duties, and fix the executive administrator’s compensation. The director may employ engineers, accountants, investigators, clerks, and stenographers as may be necessary for the performance of the consumer advocate’s functions, in accordance with chapters 76 and 77; provided that [the]:

- (1) The director may employ up to [two telecommunications or energy] four utility [planning] analysts exempt from chapters 76 and 77; and [provided further that each]
- (2) Each analyst shall possess at least the minimum qualifications required of comparable experts in the [respective industries. The annual compensation for each analyst shall not be more than \$55,000.] relevant industry.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

A Bill for an Act Relating to Highway Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-163, Hawaii Revised Statutes, is amended to read as follows:

**“[[§286-163 Applicable scope of part[.]]; mandatory testing in the event of a collision resulting in injury or death.** Nothing in this part shall be construed to prevent the police from obtaining a sample of breath or blood as evidence of intoxication from the driver of any vehicle involved in [an accident] a collision resulting in injury to or death of any person. In the event of a collision resulting in injury or death, and the police have probable cause to believe that a person involved in the incident has committed a violation of section 707-702.5, 707-703, 707-704, 707-705, 707-706, 291-4, or 291-7, the police shall request that a sample of blood be recovered from the driver or any other person suspected of committing a violation of section 707-702.5, 707-703, 707-704, 707-705, 707-706,

291-4, or 291-7. The police shall make this request to the hospital or medical facility treating the person from whom the police request that the blood be recovered. Upon the request of the police that blood be recovered pursuant to this section, and except where the responsible attending personnel at the hospital or medical facility determines in good faith that recovering or attempting to recover blood from the person represents an imminent threat to the health of the medical personnel or others, the hospital or medical facility shall provide the police with the blood sample requested, recover the sample in compliance with section 321-161, and assign a person authorized under section 286-152 to withdraw the blood sample. Any person complying with a request to withdraw blood under the direction of a police officer pursuant to this section shall be exempt from liability pursuant to section 663-1.9 as a result thereof."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

## ACT 198

H.B. NO. 1927

A Bill for an Act Relating to Business Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 425, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**"§425- Filing in office of the director.** (a) A certified and executed partnership registration statement, any other statement or certification, or any judicial decree of dissolution or cancellation, a registration statement for a foreign general partnership, or any other statement or certification relating thereto, shall be delivered to the director for filing. Unless the director finds that any statement or certificate does not conform to law, upon receipt of all filing fees required by law, the director shall:

- (1) Stamp the word "Filed" and the date of delivery thereof; and
- (2) File the document in the director's office.

(b) Upon the filing of a partnership dissolution statement or judicial decree of dissolution in the office of the director, the domestic general partnership shall be dissolved as set forth therein, and upon the effective date of a certificate of withdrawal or a judicial decree thereof, the foreign general partnership shall be withdrawn.

**§425- Filing requirements; filing duty of the director.** (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the director.

(b) The document must contain the information required by this chapter. It may contain other information as well.

(c) If the director has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(d) The director's duty to file documents under this chapter is ministerial. The filing or refusal to file a document does not:

- (1) Affect the validity of the document in whole or part;
- (2) Relate to the correctness or incorrectness of information contained in the document; or
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

**§425- Correcting a filed document.** (a) A domestic or foreign general partnership may correct a document filed by the director if the document:

- (1) Contains incorrect information; or
  - (2) Was defectively executed, attested, sealed, verified, or acknowledged.
- (b) A document is corrected:
- (1) By preparing a statement of correction that:
    - (A) Describes the document including its file date or attaches a copy of it to the statement;
    - (B) Specifies the incorrect information and the reason it is incorrect or the manner in which the execution was defective; and
    - (C) Corrects the incorrect information or defective execution; and
  - (2) By delivering the statement to the director for filing.

(c) A statement of correction is effective on the effective date of the document it corrects, except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, a statement of correction is effective when filed."

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

"(l) Any law to the contrary notwithstanding, the director of commerce and consumer affairs may [establish]:

- (1) Establish, increase, decrease, or repeal fees relating to any aspect of the registration, certification, licensure, or any other administrative process for all laws within the jurisdiction of the department. The fee assessed shall bear a reasonable relationship between the revenue derived from the fee and the cost or value of services rendered. Amendments to fee assessments shall be made pursuant to chapter 91[.]; and
- (2) Assess fees for copies in any form of media of the computerized records of the business registration division or for electronic access to the computerized information on a one-time or on-going basis. The fees charged for the copies or access may include billing service fees, network usage fees, and computer consultant fees. In adopting these fees, the division shall continue in its attempt to be self-supporting. To this end, the fees may reflect the commercial value of the service or information provided. In the case of requests for records by a nonprofit organization, the department may reduce or waive the fees. This provision shall control in any instance where there is a conflict between this provision and any other statute.

Effective July 1, 1994, the fees collected by the professional and vocational licensing division and the business registration division shall be deposited into the compliance resolution fund under subsection (o) and shall be used to defray administrative costs, including personnel costs associated with these two programs and costs incurred by supporting offices and divisions.



The director may appoint program specialists, not subject to chapters 76 and 77, to assist with the activities of the professional and vocational licensing division.”

SECTION 3. Section 415-3, Hawaii Revised Statutes, is amended to read as follows:

**“§415-3 Purposes.** Every corporation incorporated under this chapter has the purpose of engaging in any lawful business, [other than activities of a financial institution under chapter 412, activities under chapter 431, or carrying on any profession, except pursuant to chapter 415A,] unless a more limited purpose is set forth in the articles of incorporation[.]; provided that the following purposes are prohibited:

- (1) Activities under chapter 412, except when prior approval is obtained pursuant to chapter 412;
- (2) Activities under chapter 431, except when prior approval is obtained pursuant to chapter 431; and
- (3) Carrying on any professional service under chapter 415A, except pursuant to chapter 415A.”

SECTION 4. Section 415-75.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any corporation owning at least ninety per cent of the outstanding shares of each class of two or more corporations may adopt a plan of merger pursuant to section 415-75(a) and deliver to the director for filing articles of merger. The articles of merger shall be signed by the parent corporation and the surviving subsidiary corporation, and the plan of merger shall set forth:

- (1) The name of the parent corporation owning at least ninety per cent of the shares of the subsidiary corporations, the name of any nonsurviving subsidiary corporation, and the name of the surviving subsidiary corporation; and
- (2) The manner and basis of converting the shares of any nonsurviving subsidiary corporation into shares, obligations, or other securities of the surviving subsidiary corporation or of any other corporation or, in whole or in part, into cash or other property.”

SECTION 5. Section 415A-2, Hawaii Revised Statutes, is amended by amending the definition of “professional service” to read:

““Professional service” means any service which lawfully may be rendered only by persons licensed under chapters 442, 448, 453, 455, 459, 460, 461, 463E, 465, 466, 471, 554-2, and 605 and may not lawfully be rendered by a corporation organized under the Hawaii Business Corporation Act, chapter 415.”

SECTION 6. Section 415B-94, Hawaii Revised Statutes, is amended to read as follows:

**“§415B-94 Articles of dissolution.** If voluntary dissolution proceedings have not been revoked, when all debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been transferred, conveyed, or distributed pursuant to this chapter, articles of dissolution shall be delivered to the director for filing and shall be verified on oath and set forth:

- (1) The name of the corporation;
- [2] A statement setting forth the date of any meeting of members at which the resolution to dissolve was adopted, that a quorum was present at the meeting, and that the resolution received at least two-thirds of the votes which members present at the meeting or represented by proxy were entitled to cast, or a statement that a resolution to dissolve was adopted by a consent in writing signed by all members entitled to vote with respect thereto;
- (3) If there are no members or no members entitled to vote thereon, a statement of this fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted, and a statement of the fact that the resolution received the vote of a majority of the directors in office;
- (4) (2) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
- [5] (3) A copy of any plan of distribution as adopted by the corporation, or a statement that no plan was so adopted;
- [6] (4) That all of the remaining property and assets of the corporation have been transferred, conveyed, or distributed pursuant to this chapter;
- [7] (5) That there are no actions pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against the corporation in any pending action;
- [8] (6) The dates on which the notice required by section 415B-91(c) was published; and
- [9] (7) The date that the director filed the statement of intent."

SECTION 7. Section 415B-134, Hawaii Revised Statutes, is amended to read as follows:

**"§415B-134 Withdrawal of foreign corporation.** A foreign corporation authorized to conduct affairs in this State may withdraw from this State by applying to the director for a certificate of withdrawal. [The application for withdrawal shall be verified on oath and state:] In order to obtain a certificate of withdrawal, a foreign corporation shall deliver to the director an application for withdrawal, which shall set forth:

- (1) The name of the corporation and the jurisdiction in which it is incorporated;
- (2) That the corporation is not conducting affairs in this State;
- (3) That the corporation surrenders its authority to conduct affairs in this State;
- (4) That the corporation revokes the authority of its registered agent in this State to accept service of process and consents that service of process in any action or proceeding based upon any cause of action arising in this State during the time the corporation was authorized to conduct affairs in this State may thereafter be made on such corporation by service thereof on the director;
- (5) The dates that notice of the foreign corporation's intent to withdraw from the State was published, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State. The foreign corporation, with the approval of the director, may omit the publication of the notice if the corporation has insufficient assets to pay for the publication;

- (6) That all taxes, debts, obligations, and liabilities of the foreign corporation in the State have been paid and discharged or that adequate provision has been made therefor; and
- (7) A post office address to which the director may mail a copy of any process against the corporation that may be served on the director.

The application for withdrawal shall be made on forms prescribed and furnished by the director and shall be delivered to and filed by the director.”

SECTION 8. Section 415B-135, Hawaii Revised Statutes, is amended to read as follows:

**“§415B-135 [Filing of application for withdrawal.** The application for withdrawal shall be delivered to the director for filing. Upon the filing of the certificate of withdrawal by the director, the authority of the corporation to conduct affairs in this State shall cease.] **Certificate of withdrawal.** After the filing of the application for withdrawal, the director shall issue a certificate of withdrawal which shall be effective as of the date of the filing of the application of withdrawal, and the authority of the foreign corporation to conduct affairs in this State shall cease.”

SECTION 9. Section 425D-203.6, Hawaii Revised Statutes, is amended to read as follows:

**“[[§425D-203.6]] Cancellation of registration.** (a) If any limited partnership neglects for a period of two years to file any annual statement as required by this chapter, the director may cancel the certificate of [such] the limited partnership. The cancellation of [such] the certificate shall not relieve the general partners of liability for the penalties for the failure to file any statement or certificate required by this chapter.

(b) Within ninety days after the involuntary cancellation of a limited partnership under this section, the limited partnership may be reinstated by the director upon written application executed by any general partner of the limited partnership setting forth such information as the director may require, and the payment of all delinquent fees, penalties, assessments, taxes, costs of involuntary cancellation, and the filing of all [reports] statements due and unfiled. Within the ninety-day period, should the name of the limited partnership, or a name substantially identical thereto be registered or reserved by another corporation or partnership, or should such name or a name substantially identical thereto be registered as a trade name, trademark or service mark, then reinstatement shall be allowed only upon the registration of a new name by the involuntarily canceled limited partnership pursuant to the amendment provisions of this chapter.”

SECTION 10. Section 425D-902, Hawaii Revised Statutes, is amended to read as follows:

**“[[§425D-902]] Registration.** Before transacting business in this State, a foreign limited partnership shall register with the director. In order to register, a foreign limited partnership shall submit to the director an application for registration as a foreign limited partnership, certified and signed by a general partner and setting forth:

- (1) The name of the foreign limited partnership;
- (2) The state and date of its formation;
- (3) The name and address of any qualified agent for service of process on the foreign limited partnership whom the foreign limited partnership

- elects to appoint; the agent must be an individual resident of this State or a domestic corporation;
- [(4)] A statement that the director is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under paragraph (3) or, if appointed, the agent's authority has been revoked, or if the agent cannot be found or served with the exercise of reasonable diligence;
  - (5)] (4) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;
  - [(6)] (5) The name and residence address of each general partner; and
  - [(7)] (6) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with a written commitment on the part of the foreign limited partnership that it will keep those records until the registration of the foreign limited partnership in this State is [cancelled] canceled or withdrawn."

SECTION 11. Section 425D-1107, Hawaii Revised Statutes, is amended to read as follows:

**“[[§425D-1107[1]] Fees for filing documents and issuing certificates.**  
The following fees shall be paid to the director upon the filing of limited partnership documents:

- (1) Certificate of limited partnership, \$25;
- (2) Any certificate of amendment, restatement, or correction, \$10;
- (3) Certificate of cancellation, \$10;
- (4) Annual statement for domestic or foreign limited partnership, \$3;
- (5) Any other certificate or document of domestic or foreign limited partnership, \$10;
- (6) Application for registration as a foreign limited partnership, \$50;
- (7) Any certificate of amendment or agent change for foreign limited partnership, \$10;
- (8) [Certificate of cancellation of registration] Application for certificate of withdrawal of foreign limited partnership, \$10;
- (9) Reservation of name, \$10;
- (10) Transfer of reservation of name, \$10;
- (11) Good standing certificate, \$15;
- (12) Special handling fee for review of any limited partnership document, \$40;
- (13) Special handling fee for certificates issued by the director, \$10 per certificate; and
- (14) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to the special fund authorized by section 415-128.”

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 13. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 199

H.B. NO. 1998

A Bill for an Act Relating to Occupational Safety and Health Programs for State Construction Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§103D- Safety and health programs for construction.** Contracts awarded for construction in excess of \$100,000 shall comply with section 396- .”

SECTION 2. Chapter 396, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§396- Safety and health programs for contractors bidding on state construction jobs.** (a) All bids and proposals in excess of \$100,000 for state construction jobs as defined in section 103D-104 shall include a signed certification from the bidder or offerer that a written safety and health plan for the job will be available and implemented by the notice to proceed date of the project. The written safety and health plan shall include:

- (1) A safety and health policy statement reflecting management commitment;
  - (2) A description of the safety and health responsibilities of all levels of management and supervisors on the job and a statement of accountability appropriate to each;
  - (3) The details of:
    - (A) The mechanism for employee involvement in job hazard analysis;
    - (B) Hazard identification, including periodic inspections and hazard correction and control;
    - (C) Accident and “near-miss” investigations; and
    - (D) Evaluations of employee training programs;
  - (4) A plan to encourage employees to report hazards to management as soon as possible and to require management to address these hazards promptly; and
  - (5) A certification by a senior corporate or company manager that the plan is true and correct.
- (b) Failure to submit the required certification may be grounds for disqualification of the bid or proposal.
- (c) Failure to have available on site or failure to implement the written safety and health plan by the project’s notice to proceed date shall be considered wilful noncompliance and be sufficient grounds to disqualify the award and terminate the contract.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 200

H.B. NO. 51

A Bill for an Act Relating to Noise.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that noise pollution is an increasing problem in the entire State of Hawaii. The legislature also finds that the proliferation of loud and unabated noises that have developed in conjunction with increasing urbanization in the state can lead to health problems such as stress and hypertension. For twenty-five years residents outside of Oahu have not had the benefit of a noise code. Now therefore, in order to ensure and maintain the tranquility that is part of the beauty of the Hawaiian islands, the legislature finds that it is necessary to adopt codes that will control noise.

The purpose of this Act is to establish a state community noise code.

SECTION 2. Chapter 342F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342F- Noise control. By June 30, 1996, the department shall adopt a state community noise code pursuant to chapter 91, which recognizes differences in noise level standards in urban and non-urban areas of the State and noise level standards of each county. In the event of any conflict between this section and section 46-17, section 46-17 shall govern.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 19, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 201

H.B. NO. 397

A Bill for an Act Relating to Environmental Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342B-43, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by the release of any air pollutant or combination of air pollutants [which] that requires immediate action, the governor or the director, [with the approval of the governor and] without a public hearing, may order any person causing or contributing to the release of the air pollutant to immediately reduce or stop the release, and [the director] may take any and all other actions as may be necessary. [Any such]

The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director."

SECTION 2. Section 342D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by the discharge of waste or any combination of discharges of waste [which] that requires immediate action, the governor or the director, [with the approval of the governor and] without a public hearing, may order any person causing or contributing to the discharge of waste to immediately reduce or stop [such] the discharge [or the director], and may take any and all other actions as may be necessary. [Such] The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director."

SECTION 3. Section 342H-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by [a discharge] the disposal of solid waste or any combination of discharges of other waste[, which] that requires immediate action, the governor or the director, [with the approval of the governor and] without a public hearing, may order any person causing or contributing to the disposal of solid waste or discharge of other waste to immediately reduce or stop [such] the disposal or [the director] discharge, and may take any and all other actions as may be necessary. [Such] The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director."

SECTION 4. Section 342J-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, if the governor or the director determines that the past or present handling, storage, treatment, transportation, or disposal of any hazardous waste or hazardous waste constituent may present an imminent and substantial endangerment to health or the environment, the governor or the director, [with the approval of the governor and] without [public notice and] a public hearing, may secure or order such relief as may be necessary to abate [such] the danger or threat. [Such] The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director. The governor or the director may also institute a civil action in any court of competent jurisdiction to secure such relief as may be necessary to abate [such] the danger or threat."

SECTION 5. Section 342L-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to human health and safety or the environment is or will be caused by [a]:

(1) A release[, or by any];

(2) Any action taken in response to a release from an underground storage tank or tank system[, or by the]; or

(3) The installation or operation of an underground storage tank or tank system[, which]; that requires immediate action, the governor or the director, [with the approval of the governor and] without [any] a public hearing, may order any person causing or contributing to the peril to immediately reduce or stop the release or activity [or the director], and may take any and all other actions as may be necessary. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.”

SECTION 6. Section 342N-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by a discharge of new, used, or recycled oil or any combination of discharges of waste[, which] that requires immediate action, the governor or the director, [with the approval of the governor and] without a public hearing, may order any person causing or contributing to the peril to immediately reduce or stop [such] the discharge [or activity or the director], and may take any and all other actions as may be necessary. [Such] The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.”

SECTION 7. Section 342P-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by an emission of asbestos[,], that requires immediate action, the governor or the director, [with the approval of the governor and] without a public hearing, may order any person causing or contributing to the emission to immediately reduce or stop the emission [or], and may take any and all other actions as may be necessary. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

## ACT 202

H.B. NO. 1586

A Bill for an Act Relating to Collective Bargaining in Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If a dispute between a public employer and the exclusive representative of optional appropriate bargaining unit (10), institutional, health, and correctional workers; optional appropriate bargaining unit (11), firefighters[.]; or optional appro-



appropriate bargaining unit (12), police officers[.]; exists over the terms of an initial or renewed agreement more than ninety working days after written notification by either party to initiate negotiations, either party may give written notice to the board that an impasse exists and the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse, the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail to select an impartial third arbitrator within twenty-four working days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the impartial arbitrator shall be selected. Within five calendar days after receipt of such list, the parties shall alternately strike names therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a final offer which shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions other than those relating to contributions by the State and respective counties to the Hawaii public employees health fund which each party is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall issue a final and binding decision.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision:

- (1) The lawful authority of the employer.

- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees in Hawaii.
- (7) The average consumer prices for goods or services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties on all provisions submitted to the arbitration panel. If the parties have reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the tenth working day after the arbitration panel issues its decision, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions agreed to by the parties. If the parties have not reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the close of business on the tenth working day after the arbitration panel issues its decision, the parties shall have five days to submit their respective recommendations for such contributions to the legislature, if it is in session, and if the legislature is not in session, the parties shall submit their respective recommendations for such contributions to the legislature during the next session of the legislature. In such event, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions established by the legislature by enactment, after the legislature has considered the recommendations for such contributions by the parties. It is strictly understood that no member of a bargaining unit subject to this subsection shall be allowed to participate in a strike on the issue of the amounts of contributions by the State and counties to the Hawaii public employees health fund. The parties shall take whatever action is necessary to carry out and effectuate the final and binding agreement. The parties may, at any time and by mutual agreement, amend or modify the panel's decision.

Agreements reached pursuant to the decision of an arbitration panel and the amounts of contributions by the State and counties to the Hawaii public employees health fund, as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs of its selected

member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties.”

SECTION 2. This Act shall not be construed as in conflict with the provisions of S.B. No. 1218, S.D. 1, H.D. 1,<sup>1</sup> which also amends section 89-11, Hawaii Revised Statutes, and was passed during this 1995 regular session. In codifying any changes to section 89-11, Hawaii Revised Statutes, the revisor of statutes shall regard the provisions of this Act as additions to the provisions of S.B. No. 1218, S.D. 1, H.D. 1,<sup>1</sup> if both are enacted.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

**Note**

1. Act 208.

**ACT 203**

S.B. NO. 84

A Bill for an Act Relating to Drug Dealers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. The legislature finds that:

- (1) Every community in the country is impacted by the marketing and distribution of illegal drugs. A vast amount of state and local resources are expended in coping with the financial, physical, and emotional toll that results from the existence of the illegal drug market. Families, employers, insurers, and society in general bear the substantial costs of coping with the marketing of illegal drugs. Drug babies and parents, particularly those of adolescent illegal drug users, suffer significant noneconomic injury as well.
- (2) Although the criminal justice system is an important weapon against the illegal drug market, the civil justice system can and must also be used. The civil justice system can provide an avenue of compensation for those who have suffered harm as a result of the marketing and distribution of illegal drugs. The persons who have joined the illegal drug market should bear the cost of the harm caused by that market in the community.
- (3) The threat of liability under this Act serves as an additional deterrent to a recognizable segment of the illegal drug network. A person who has nondrug-related assets, who markets illegal drugs at the workplace, who encourages friends to become users, among others, is likely to decide that the added cost of entering the market is not worth the benefit. This is particularly true for a first-time casual dealer who has not yet made substantial profits. This Act provides a mechanism for the cost of the injury caused by illegal drug use to be borne by those who benefit from illegal drug dealing.
- (4) This Act imposes liability against all participants in the illegal drug market, including small dealers, particularly those in the workplace,

who are not usually the focus of criminal investigations. The small dealers increase the number of users and are the people who become large dealers. These small dealers are most likely to be deterred by the threat of liability.

- (5) A parent of an adolescent illegal drug user often expends considerable financial resources, typically in the tens of thousands of dollars, for the child's drug treatment. Local and state governments provide drug treatment and related medical services made necessary by the distribution of illegal drugs. The treatment of drug babies is a considerable cost to local and state governments. Insurers pay large sums for medical treatment relating to drug addiction and use. Employers suffer losses as a result of illegal drug use by employees due to lost productivity, employee drug-related workplace accidents, employer contributions to medical plans, and the need to establish and maintain employee assistance programs. Large employers, insurers, and local and state governments have existing legal staffs that can bring civil suits against those involved in the illegal drug market, in appropriate cases, if a clear legal mechanism for liability and recovery is established.
- (6) Drug babies, who are clearly the most innocent and vulnerable of those affected by illegal drug use, are often the most physically and mentally damaged due to the existence of an illegal drug market in a community. For many of these babies, the only possible hope is extensive medical and psychological treatment, physical therapy, and special education. All of these potential remedies are expensive. These babies, through their legal guardians and through court appointed guardians ad litem, should be able to recover from those in the community who have entered and participated in the marketing of the types of illegal drugs that have caused their injuries.
- (7) In theory, civil actions for damages for distribution of illegal drugs can be brought under existing law. They are not. Several barriers account for this. Under existing tort law, only those dealers in the actual chain of distribution to a particular user could be sued. Drug babies, parents of adolescent illegal drug users, and insurers are not likely to be able to identify the chain of distribution to a particular user. Furthermore, drug treatment experts largely agree that users are unlikely to identify and bring suit against their own dealers, even after they have recovered, given the present requirements for a civil action. Recovered users are similarly unlikely to bring suit against others in the chain of distribution, even if they are known to the user. A user is unlikely to know other dealers in the chain of distribution. Unlike the chain of distribution for legal products, in which records identifying the parties to each transaction in the chain are made and shared among the parties, the distribution of illegal drugs is clandestine. Its participants expend considerable effort to keep the chain of distribution secret.
- (8) Those involved in the illegal drug market in a community are necessarily interrelated and interdependent, even if their identity is unknown to one another. New dealers obtain the benefit of the existing illegal drug distribution system to make illegal drugs available to them. In addition, the existing market aids a new entrant by the prior development of people as users. Many experts on the illegal drug market agreed that each participant ultimately is likely to be indirectly related to each other. That is, beginning with any one dealer, given the theoretical ability to identify every person known by the dealer to be involved in illegal drug trafficking, and in turn each of such others known to them,

and so on, the illegal drug market in a community would ultimately be fully revealed.

- (9) Market liability has been created with respect to legitimate products by judicial decision in some states. It provides for civil recovery by plaintiffs who are unable to identify the particular manufacturer of the product that is claimed to have caused them harm, allowing recovery from all manufacturers of the product who participated in that particular market. The market liability theory has been shown to be destructive of market initiative and product development when applied to legitimate markets. Because of this potential for undermining markets, this Act expressly adopts a legislatively crafted form of liability for those who intentionally join the illegal drug market. The liability established by this Act grows out of but is distinct from existing judicially crafted market liability.
- (10) The prospect of a future suit for the costs of drug treatment may drive a wedge between prospective dealers and their customers by encouraging users to turn on their dealers. Therefore, liability for those costs, even to the user, is imposed under this Act as long as the user identifies and brings suit against the user's own dealers.
- (11) Allowing dealers who face a civil judgment for their illegal drug marketing to bring suit against their own sources for contribution may also drive a wedge into the relationships among some participants in the illegal drug distribution network.
- (12) While not all persons who have suffered losses as a result of the marketing of illegal drugs will pursue an action for damages, at least some individuals, guardians of drug babies, government agencies that provide treatment, insurance companies, and employers will find such an action worthwhile. These persons deserve the opportunity to recover their losses. Some new entrants to retain illegal drug dealing are likely to be deterred even if only a few of these suits are actually brought.

The purpose of this Act is to provide a civil remedy for damages to persons in a community injured as a result of illegal drug use. These persons include parents, employers, insurers, governmental entities, and others who pay for drug treatment or employee assistance programs, as well as infants injured as a result of exposure to drugs in utero ("drug babies"). This Act will enable them to recover from those persons in the community who have joined the illegal drug market. A further purpose of this Act is to shift, to the extent possible, the cost of the damage caused by the existence of the illegal drug market in a community to those who illegally profit from that market. The further purpose of this Act is to establish the prospect of substantial monetary loss as a deterrent to those who have not yet entered into the illegal drug distribution market. The further purpose is to establish an incentive for drug users to identify and seek payment for their own drug treatment from those dealers who have sold drugs to them in the past.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER DRUG DEALER LIABILITY**

§ -1 **Title.** This Act may be cited as the Drug Dealer Liability Act.

§ -2 **Definitions.** As used in this chapter:

“Illegal drug” means “dangerous drugs” or a “harmful drug” as defined in section 712-1240.

“Illegal drug market” means the support system of illegal drug related operations, from production to retail sales, through which an illegal drug reaches the user.

“Illegal drug market target community” is the area described under section -6.

“Individual drug user” means the individual whose illegal drug use is the basis of an action brought under this chapter.

“Level one offense” means the illegal possession of one-fourth ounce or more, but less than four ounces, or the illegal distribution of less than one ounce of an illegal drug.

“Level two offense” means the illegal possession of four ounces or more, but less than eight ounces, or the illegal distribution of one ounce or more, but less than two ounces, of an illegal drug.

“Level three offense” means the illegal possession of eight ounces or more, but less than sixteen ounces, or the illegal distribution of two ounces or more, but less than four ounces, of an illegal drug.

“Level four offense” means the illegal possession of sixteen ounces or more or the illegal distribution of four ounces or more of an illegal drug.

“Participate in the illegal drug market” means to illegally: distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing or distribution of an illegal drug, or conspire to commit any of the foregoing acts. “Participate in the illegal drug market” does not include the purchase or receipt of an illegal drug for personal use only and does not include a distribution of an illegal drug unless the distribution is for value.

“Period of illegal drug use” means, in relation to the individual drug user, the entire time of the individual’s illegal use of an illegal drug. In cases where the testimony of the individual drug user is unavailable, the period of illegal drug use is presumed to commence two years before the earliest known use by the individual drug user unless the defendant proves otherwise by clear and convincing evidence.

“Person” means the same as in section 1-19.

“Place of illegal drug activity” means, in relation to the individual drug user, the place in which the individual possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the individual’s illegal drug use.

“Place of participation” means, in relation to a defendant in an action brought under this chapter, the place at which the person participates in the illegal drug market or at which the person resides, attends school, or is employed during the period of the person’s participation in the illegal drug market.

**§ -3 Recovery of damages.** (a) One or more of the following persons may bring an action to recover for damages caused by an individual’s use of an illegal drug:

- (1) A parent, legal guardian, child, spouse, or sibling of the individual drug user;
- (2) An individual who was exposed to an illegal drug in utero;
- (3) An employer of the individual drug user;
- (4) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or
- (5) A person injured as a result of the intentional, knowing, reckless, or negligent actions of an individual drug user.

(b) A person entitled to bring an action under this section may seek damages from one or more of the following:

- (1) A person who knowingly distributed, or knowingly participated in the chain of distribution of, the illegal drug for value that was actually used by the individual drug user.
- (2) A person who knowingly participated in the illegal drug market but only if:
  - (A) The place of illegal drug activity by the individual drug user is within the illegal drug market target community of the defendant;
  - (B) The defendant's participation in the illegal drug market was involved with the same type of illegal drug used by the individual drug user; and
  - (C) The defendant participated in the illegal drug market at any time during the individual drug user's period of illegal drug use.

(c) A person entitled to bring an action under this section may recover all of the following damages:

- (1) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use;
- (2) Noneconomic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services, and consortium, and other nonpecuniary losses proximately caused by an individual's use of an illegal drug;
- (3) Exemplary damages;
- (4) Reasonable attorney's fees; and
- (5) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

**§ -4 Limited recovery of damages.** (a) An individual drug user may not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this section. An individual drug user may bring an action for damages caused by that individual's use of an illegal drug only if all of the following conditions are met:

- (1) The individual has not used an illegal drug within the six months before filing the action; and
- (2) The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

(b) A person entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, the illegal drug for value that was actually used by the individual drug user.

(c) A person entitled to bring an action under this section may recover only the following damages:

- (1) Economic damages, including, but not limited to, the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the person's illegal drug use;
- (2) Reasonable attorney's fees; and
- (3) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

(d) Twenty-five per cent of any actual recovery of damages by the plaintiff under this section, whether by settlement, execution on a judgment, or otherwise, shall be turned over to the State for deposit into the general fund.

§ -5 **Third party cases.** Notwithstanding any other law to the contrary, no person shall be liable under this chapter under civil principles of vicarious liability.

§ -6 **Illegal drug market target community.** A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

- (1) For a level one offense, the area identified by the tax map section in which the defendant's place of participation is situated;
- (2) For a level two offense, the area identified by the tax map zone in which the defendant's place of participation is situated;
- (3) For a level three offense, the county, provided that in the case of Maui and Kauai counties the target community shall be any island in the respective county;
- (4) For a level four offense, the entire State.

§ -7 **Joinder of parties.** (a) Two or more persons may join in one action under this chapter as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

(b) Two or more persons may be joined in one action under this chapter as defendants if those persons are liable to at least one plaintiff.

(c) A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more plaintiffs according to their respective rights to relief and against one or more defendants according to their respective liabilities.

§ -8 **Comparative responsibility.** (a) An action by an individual drug user shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

(b) The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

(c) Comparative responsibility shall not be attributed to a plaintiff who is not an individual drug user.

§ -9 **Contribution among and recovery from multiple defendants.** Except as otherwise provided in this chapter, part II of chapter 663 shall apply to a cause of action established by this chapter.

§ -10 **Standard of proof; effect of criminal drug conviction.** (a) Proof of participation in the illegal drug market in an action brought under this chapter shall be shown by clear and convincing evidence. Except as otherwise provided in this chapter, other elements of the cause of action shall be shown by a preponderance of the evidence.

(b) A person against whom recovery is sought who has a final criminal conviction pursuant to section 712-1241, 1242, 1244, or 1245 or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 Stat. 1236 (21 U.S.C. §801 et seq.), arising out of an act or acts within the meaning of the term "participate in the illegal drug market" is estopped from denying participation in



the illegal drug market. Such a conviction creates a rebuttable presumption that the person participated in the illegal drug market during the two years preceding the date of an act giving rise to a conviction.

(c) The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person under this chapter.

**§ -11 Defense.** It is a defense to any action brought pursuant to this chapter that the person who possessed, distributed, or facilitated the marketing or distribution of a dangerous or harmful drug did so under authority of law as a practitioner, as an ultimate user of the drug pursuant to a lawful prescription, or as a person otherwise authorized by law.

A law enforcement officer or agency, the State, or a person acting at the direction of a law enforcement officer or agency or the State is not liable for participating in the illegal drug market if the participation is in furtherance of an official investigation.

**§ -12 Statute of limitations.** (a) A claim under this chapter may not be brought against a person more than four years after an act of participation in the illegal drug market by that person.

(b) The limitation period provided for in this chapter is tolled during any time there is a criminal drug offense investigation being actively conducted against the defendant by a governmental agency or there is a criminal drug offense charge, information or indictment pending against the defendant.

**§ -13 Stay of action.** On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

**§ -14 Effect on existing laws.** This chapter is not intended to alter the law regarding intra-family tort immunity.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. If any provision of this Act or the application of any provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected by that invalidation.

SECTION 5. This Act shall take effect upon its approval and shall be repealed on June 30, 2003.

(Approved June 19, 1995.)

A Bill for an Act Relating to the Driver Education and Training Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286G-3, Hawaii Revised Statutes, is amended to read as follows:

**“§286G-3 Fines.** (a) A fine of [~~\$5~~] \$7 shall be levied on a finding that a violation [~~occurred~~] of a statute or county ordinance relating to vehicles or their drivers or owners[~~;~~ occurred, except for:

- (1) [~~offenses~~] Offenses relating to stopping (when prohibited), standing, or parking;
- (2) [~~offenses~~] Offenses relating to registration; and
- (3) [~~offenses~~] Offenses by pedestrians.

In addition, a fine of \$100 shall be levied on persons convicted under section 291-4 to defray costs of services provided by the driver education and training program.

(b) The [~~fine~~] fines levied by subsection (a) shall be paid for each violation in addition to any fine imposed by the court, and regardless of whether [or not such] a fine is suspended[.]; provided that the fine of \$100 levied on a person convicted under section 291-4 may be waived by the court if the court determines that the person is unable to pay the fine.

(c) The amount of [~~the~~] each fine levied by subsection (a) shall be transmitted by the clerk of the court for deposit in the driver education and training fund.”

SECTION 2. Section 431:10C-115, Hawaii Revised Statutes, is amended as follows:

**“§431:10C-115 Drivers education fund underwriters fee.** (a) The commissioner shall assess and levy upon each insurer, and self-insurer, a drivers education fund underwriters fee of [~~\$2~~] \$1.50 a year on each motor vehicle insured by each insurer or self-insurer. This fee is due and payable in full on an annual basis by means and at a time to be determined by the commissioner.

(b) The commissioner shall deposit the fees into a special drivers education fund account.

(c) The commissioner shall allocate the fees deposited for each fiscal year in the following manner:

- (1) Fifty per cent to the commissioner to be expended for the operation of the drivers education program provided in section 286-128(m); and
- (2) Fifty per cent to the director of commerce and consumer affairs for:
  - (A) The drivers education program administered by the department of education for high school students; and
  - (B) The traffic safety education program established and administered by the department of education pursuant to section 299-5.

(d) The commissioner shall [~~make all necessary~~] adopt rules [~~and regulations~~] in accordance with chapter 91 for the execution of this section and the distribution of this fund.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 19, 1995.)

ACT 205

S.B. NO. 432

A Bill for an Act Relating to Drug Demand Reduction Assessments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§706- Drug demand reduction assessments; special fund.** (1) In addition to any disposition authorized by chapter 706 or 853, any person convicted of a felony or misdemeanor offense under part IV of chapter 712, except section 712-1250.5, or any person charged with such an offense who has been granted a deferred acceptance of guilty or no contest plea may be ordered to pay a monetary assessment not exceeding the following:

- (a) \$3,000 when the offense is a class A felony;
- (b) \$2,000 when the offense is a class B felony;
- (c) \$1,000 when the offense is a class C felony; or
- (d) \$500 when the offense is a misdemeanor.

Notwithstanding sections 706-640 and 706-641 and any other law to the contrary, the assessments provided by this section shall be in addition to and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law.

(2) There is established a special fund to be known as the “drug demand reduction assessments special fund,” to be administered by the department of health. The disbursement of moneys from the drug demand reduction assessments special fund shall be used to supplement drug treatment and other drug demand reduction programs.

(3) All monetary assessments paid pursuant to this section shall be deposited into the drug demand reduction assessments special fund.

(4) Restitution to the victim of a crime enumerated in subsection (1) shall be made before payment of the monetary assessment.

(5) The court shall not order the defendant to pay the monetary assessment unless the defendant is or will be able to pay the monetary assessment.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 1996.

(Approved June 19, 1995.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Prescriptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§328- Prescription labeling.** (a) A practitioner or the practitioner’s authorized representative shall:

- (1) Offer to the consumer the option of having the symptom or condition for which a drug is being prescribed listed on the consumer’s prescription drug label; and
- (2) Inform the consumer of the consumer’s right to not have the symptom or condition listed on the prescription drug label.

(b) The symptom or condition shall not appear on the prescription drug label if the consumer refuses.

(c) Instructions for including the symptom or condition on the consumer’s prescription drug label shall be written by the practitioner on the prescription.

(d) The symptom or condition shall be printed on the prescription drug label only if it is written on the prescription as part of the directions for use. Any symptom or condition written on a prescription that is not part of the directions for use shall not be printed on the prescription drug label.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to a Representative Payee System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the current method of supporting people disabled by addiction requires modification. Direct cash welfare payments to alcohol and other drug addicted persons can result in money being spent on alcohol and other drugs instead of on day-to-day living expenses. Requiring professional representative payees who are not personal friends or relatives of the clients to disburse welfare checks to clients would alleviate this problem.

The purpose of this Act is to ensure that direct cash welfare payments are used for day-to-day living expenses rather than for the purchase of alcohol and other drugs.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Representative payee.** (a) Persons determined to be eligible under section 346-71 because they have a primary diagnosis of substance abuse shall have their benefits issued through a representative payee. The representative payee shall be designated by the department of health.

(b) Persons whose eligibility is not determined until after December 1, 1995, shall have their benefits issued through a representative payee. Persons whose eligibility has been determined prior to December 1, 1995, shall have their benefits issued through a representative payee when recertified.”

SECTION 3. Section 334-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a representative payee program within the department of health, to be administered by the director of health, to provide representative payee services to “mentally ill persons,” [as defined in section 334-1, and] “persons suffering from substance abuse,” [as defined in section 334-1, who are unable to manage their personal financial resources.] and persons referred from the department of human services who receive financial assistance and have a primary medical diagnosis of substance abuse.”

SECTION 4. Only an amount that is necessary to cover the costs of funding the representative payee system, not to exceed one per cent of the moneys appropriated under HMS 204 in the General Appropriations Act of 1995, or so much thereof as may be necessary for fiscal year 1995-1996, and a similar amount for fiscal year 1996-1997, shall be transferred to the department of health to be used for the purposes of this Act.

SECTION 5. The department of health shall submit annual reports to the legislature no later than twenty days prior to the convening of each regular session, detailing the money expended during the year on the representative payee program and providing general demographic data, such as age, ethnicity, gender, and geographic residence, of the people served by the program.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 1995.

(Approved June 19, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 208**

S.B. NO. 1218

A Bill for an Act Relating to Collective Bargaining in Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If a dispute between a public employer and the exclusive representative of appropriate bargaining unit (2), supervisory employees in blue collar positions;

appropriate bargaining unit (3), nonsupervisory employees in white collar positions; appropriate bargaining unit (4), supervisory employees in white collar positions; appropriate bargaining unit (6), educational officers and other personnel of the department of education under the same salary schedule; appropriate bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; optional appropriate bargaining unit (9), registered professional nurses; optional appropriate bargaining unit (11), firefighters[, or]; optional appropriate bargaining unit (12), police officers[,]; or optional appropriate bargaining unit (13), professional and scientific employees, other than registered professional nurses, exists over the terms of an initial or renewed agreement more than ninety working days after written notification by either party to initiate negotiations, either party may give written notice to the board that an impasse exists and the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse, the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail to select an impartial third arbitrator within twenty-four working days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the impartial arbitrator shall be selected. Within five calendar days after receipt of such list, the parties shall alternately strike names therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a final offer which shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions other than those relating to contributions by the State and respective counties to the Hawaii public employees health fund which each party is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching

a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall issue a final and binding decision.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees in Hawaii.
- (7) The average consumer prices for goods or services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties on all provisions submitted to the arbitration panel. If the parties have reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the tenth working day after the arbitration panel issues its decision, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions agreed to by the parties. If the parties have not reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the close of business on the tenth working day after the arbitration panel issues its decision, the parties shall have five days to submit their respective recommendations for such contributions to the legislature, if it is in session, and if the legislature is not in session, the parties shall submit their respective recommendations for such contributions to the legislature during the next session of the legislature. In such event, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions established by the legislature by enactment, after the legislature has considered the recommendations for such contributions by the parties. It is strictly understood that no member of a bargaining unit subject to this subsection shall be allowed to participate in a strike on the issue of the amounts of contributions by the State and counties to the Hawaii public employees health fund. The parties shall take whatever action is necessary to carry out and effectuate the final and binding agreement. The parties may, at any time and by mutual agreement, amend or modify the panel's decision.

Agreements reached pursuant to the decision of an arbitration panel and the amounts of contributions by the State and counties to the Hawaii public employees health fund, as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs of its selected member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

## ACT 209

S.B. NO. 1626

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-8.92, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a discoveries and inventions revolving fund into which shall be deposited four per cent of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year. [The deposit of overhead funds shall be terminated at the end of the 1995-1996 fiscal year.] Appropriations by the state legislature subject to the approval of the governor, proceeds from the commercial exploitation of inventions and intellectual property developed at the university, gifts, donations, fees collected, and grants from public agencies and private persons may also be deposited into the fund for the purposes of supporting innovation and research commercialization and the patenting, copy-righting, licensing, and marketing of discoveries, inventions, and technologies developed at the university. The fund shall be used to develop technologies which have potential commercial value, support the administration of technology transfer activities, and facilitate economic development through education and research undertaken at the university.”

SECTION 2. Section 304-8.96, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a housing assistance revolving fund into which shall be deposited twelve per cent of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year. The fund shall be used to:



- (1) [implement] Implement the University of Hawaii housing assistance master plan, in accordance with policies adopted by the board of regents[,]; and
- (2) [account] Account for all transactions of the university housing assistance program, including but not limited to revenues, expenditures, loans, and transfers.

[The deposit of overhead funds shall be terminated at the end of the 1995-1996 fiscal year.]”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1995.)

## ACT 210

S.B. NO. 550

A Bill for an Act Relating to the Development of Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in September 1992, there were 176,923 students enrolled in Hawaii’s public schools. It is estimated that by the year 2003 enrollment will increase to 191,000 students which will require an additional 640 classrooms. The department of education has 9,431 classrooms in its present inventory. Eight thousand four hundred forty of these classrooms are permanent rooms and 991 of them are “portables”. In 1992 there was a shortage of 700 classrooms. If enrollment increases as expected, then the shortage in classrooms by 2003 will reach 1,340. Statistics indicate that there is a severe shortage of classrooms in the central and leeward school districts. The need for school facilities on the Ewa Plain in particular is exacerbated by the development of the Village of Kapolei, a project of the housing finance and development corporation. The construction of educational facilities for these new communities is not being undertaken in keeping with the development of these new housing projects.

The purpose of this Act is to require that the department of education in its plans to develop new schools, give consideration to the State’s role as master developer of master planned communities by the housing finance and development corporation and the State’s responsibility to provide for the educational needs of those housing projects; and to require the housing finance and development corporation to plan educational facilities as a necessary and integrated part of its housing projects, and to use its authority, ability, and innovativeness to assist in the expeditious provision of these facilities.

SECTION 2. Section 27-11, Hawaii Revised Statutes, is amended to read as follows:

**“§27-11 Planning, construction, and improvements of public school facilities and grounds; custodial and janitorial services for public schools; transportation of school children.** The following functions and services, heretofore performed by the several counties under contractual arrangements with the State, shall be directly administered and performed by the department or departments, or divisions of government designated by the governor:

- (1) Planning, construction, and improvements of public school facilities and grounds; provided that the department of education shall add to its list of considerations in the planning and development of schools the role of the housing finance and development corporation in developing housing projects and the resulting educational needs of those housing projects; and provided further that nothing in this section shall be construed to prohibit the housing finance and development corporation from planning educational facilities and related infrastructure as a necessary and integral part of its housing projects;
- (2) Repair, maintenance, custodial, and janitorial services for public school facilities; and
- (3) Transportation of school children.”

SECTION 3. Section 201E-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The corporation, in its own behalf or on behalf of any government, may:
- (1) Clear, improve, and rehabilitate property; [and]
  - (2) Plan, develop, construct, and finance housing[.]; and
  - (3) In cooperation with the department of education and department of accounting and general services, plan educational facilities and related infrastructure as a necessary and integral part of its housing projects using all its innovative powers towards achieving that end expeditiously and economically; provided that the educational facilities comply with the department of education’s educational specifications, timelines, and siting requirements.”

SECTION 4. (a) The corporation in cooperation with the department of education and the department of accounting and general services shall plan a high school in Kapolei which shall be located in the Villages of Kapolei or on that certain parcel of land encompassing 47.183 acres and located in Kapolei, Oahu, further identified by tax map key no. 1-9-1-016:109, title to which shall be transferred to the housing finance and development corporation by the board of land and natural resources.

(b) If the corporation chooses to locate the high school in the Villages of Kapolei then the 47 acre parcel of land may be used for additional housing as part of the Villages of Kapolei development. If the corporation chooses to locate the high school on the 47 acre parcel of land, then the following terms and conditions apply:

- (1) That upon completion of construction of the educational facility, title to the land and improvements shall be conveyed back to the board of land and natural resources for subsequent set aside by governor’s executive order to the control and management of the department of education, pursuant to section 171-11, Hawaii Revised Statutes; and
- (2) That conveyance of the parcel of land back to the board of land and natural resources shall be: (A) in fee simple and (B) free and clear of liens, judgments, and other encumbrances affecting clear title to the parcel of land.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

## ACT 211

S.B. NO. 1674

A Bill for an Act Relating to Community Hospitals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the pilot project to foster autonomous operation of the community hospitals has contributed to improving the delivery of health care services by Hawaii's public hospital system.

The State's community hospitals system is the fifth largest in the nation. The division of community hospitals is comprised of twelve medical facilities and one medical clinic located on the islands of Oahu, Hawaii, Maui, Kauai, and Lanai.

This Act provides for additional exemptions and powers that cover a wide array of hospital operating functions and services. It is an omnibus package of measures that is intended to provide the necessary foundation for the community hospitals to transition into an "agency" as mandated by the seventeenth legislature.

Further, this Act provides the needed legislative form and clarification of statutes that will further improve the ability of the community hospitals system to remain competitively viable and fiscally sound.

The legislature finds that it continues to be advantageous to the State to support measures that grant the community hospital system the means to progress in generating over ninety per cent of their own operating revenues. Additionally, the legislature recognizes that enabling the community hospitals system to generate its own revenues reduces the need for state general fund subsidy to the system. As it currently stands, less than ten per cent of the entire community hospital system budget is composed of general fund dollars.

SECTION 2. Chapter 323, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§323- Hospital operations funds.** (a) There are established at commercial banks selected by each public health facility thirteen hospital operations funds, one each for each of the public health facilities, to expedite the payment of any vendor's bill for goods and services received of less than \$10,000.

(b) The director is authorized to transfer funds from each public health facility's special fund established by section 323-73 to the respective hospital operations funds established in subsection (a).

(c) At the end of each fiscal quarter, each public health facility shall report its expenditure activities to the department of budget and finance and the department of accounting and general services.

(d) The director of health shall establish policies and procedures necessary to ensure each public health facility operates its hospital operations fund in compliance with existing statutes.

(e) The department of health shall provide an annual report to the governor and legislature describing the activities involved in each of the thirteen hospital operations funds, including a detailed listing of encumbrances and expenditures using general acceptable accounting principles, by December 15 of each year for the preceding fiscal year.

(f) Notwithstanding any law to the contrary, expenditures from these funds shall be subject to section 103D-305.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.**

Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school fund under section 298-3.5;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund;
- (6) Special fund established by section 206E-6;
- [[ ](7)[ ]] Housing loan program revenue bond special fund, housing project bond special fund;
- [[ ](8)[ ]] Aloha Tower fund created by section 206J-17; [and
- [[ ](9)[ ]] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
- (10) Division of community hospitals' special funds;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
  - (2) Special summer school fund under section 298-3.5;
  - (3) School cafeteria special funds of the community colleges, and the department of education;
  - (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special fund established by section 206E-6;
  - [[ ](7)[ ]] Aloha Tower fund created by section 206J-17; [and
  - [[ ](8)[ ]] Spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
  - (9) Division of community hospitals' special funds;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 5. Section 37-53, Hawaii Revised Statutes, is amended to read as follows:

**“§37-53 Transfer of special funds.** At any time during a fiscal year, notwithstanding any other law to the contrary, any department may, with the approval of the governor or the director of finance if so delegated by the governor, transfer from any special fund relating to such department to the general revenues of

the State all or any portion of moneys determined to be in excess of fiscal year requirements for such special fund, except for special funds under the control of the department of transportation relating to highways, airports, transportation use, and harbors activities[.], and special funds under the control of the division of community hospitals of the department of health. At any time the department of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer from any special fund under the control of the department of transportation, or from any account within any such special fund, to the general revenues of the State or to any other special fund under the control of the department of transportation all or any portion of moneys determined to be in excess of requirements for the ensuing twelve months determined as prescribed by rules adopted pursuant to chapter 91; provided that no such transfer shall be made which would cause a violation of federal law or federal grant agreements.”

SECTION 6. Section 37-74, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) The University of Hawaii shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable[.]; and the division of community hospitals shall have the flexibility to transfer special fund appropriations among community hospitals division facilities as applicable; provided that the division of community hospitals shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility which would result in a reduction of services offered by the facility, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
- (3) The university and the division of community hospitals shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.

(e) The University of Hawaii and the division of community hospitals shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor.”

SECTION 7. Section 103D-204, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a procurement office within the department of accounting and general services, which shall be headed by the administrator of the procurement office. The administrator shall be the chief procurement officer for the governmental bodies of the executive branch other than the University of Hawaii [and], the department of education, and the division of community hospitals within the department of health, and those governmental bodies administratively attached

thereto. The administrator shall be a full-time public official. The administrator shall serve a term of four years, and shall be paid the salary established for deputies or assistants to department heads under section 26-53 without diminution during the administrator's term of office unless by general law applying to all deputies or assistants to department heads."

SECTION 8. Section 323-63, Hawaii Revised Statutes, is amended to read as follows:

**"§323-63 Powers.** The department may:

- (1) Operate, manage, and control all public health facilities and establish one or more public health facilities as a system of public health facilities for the purpose of issuing revenue bonds pursuant to part III of chapter 39;
- (2) Establish new public health facilities;
- (3) Adopt, amend, and repeal bylaws and rules governing the conduct of its affairs and the performance of the powers and duties granted to or imposed upon it by law;
- (4) With the governor's approval, enter into and perform contracts, leases, cooperative agreements, or other transactions that may be necessary in the performance of its duties and responsibilities, including, but not limited to, entering into contracts for the management or lease, or both, of any component of a public health facility, and on terms that it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof, or with any person, firm, association, or corporation; provided that the transaction shall further the public interest;
- (5) With the governor's approval, enter into business relationships, including, but not limited to:
  - (A) Creating nonprofit corporations;
  - (B) Establishing, subscribing to, and owning stock in for-profit corporations individually or jointly with others; and
  - (C) Entering into partnerships and other joint venture arrangements; provided that the relationship shall further the public interest;
- (6) Participate in prepaid health care service and insurance programs, and other alternative health care delivery programs[;] that may involve discounts and contractual adjustments from its rates, rents, fees, and charges;
- (7) Execute, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any of its powers;
- (8) Hire and dismiss, in accordance with section 323-65, the administrator or assistant administrator, or both, for each public health facility;
- (9) Prepare and recommend all division-wide and facility-specific budgets, policies, and procedures;
- (10) Set rates and charges for all services provided in each public health facility;
- (11) Recommend capital improvement projects, and repair and maintenance projects for each public health facility;
- (12) Conduct annual audits through an independent certified public accountant covering all financial operations of the public health facilities and the division;
- (13) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities;

- (14) Develop division-wide capital and strategic plans;
- (15) Issue revenue bonds pursuant to part III of chapter 39; and
- (16) Perform all other acts necessary or appropriate to carry out the purposes of this part."

SECTION 9. Section 323-70, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding subsection (a) and without regard to chapter 91, the division may:

- (1) Increase rates, rents, fees, and charges by up to five per cent per fiscal year;
- [(1)] (2) Reduce rates, rents, fees, and charges[;] without notice; and
- [(2)] (3) Establish rates for new medical services that are comparable to rates charged by private hospitals in Hawaii;

provided that the division shall give public notice of the revisions by publishing a summary statement of the substance of the proposed revisions in a newspaper of general circulation in the State not less than thirty days before the revisions take effect. Following this notice, the division shall review the proposed rates with an appropriate body that includes representation from health benefit plans."

SECTION 10. Section 323-73, Hawaii Revised Statutes, is amended to read as follows:

**"§323-73 Establishment of special funds.** (a) Each public health facility shall place its revenues and all other moneys collected, acquired, or made available for the use of that facility, into a special fund to be used for the payment of its lawful operating expenditures, except that:

- (1) Any moneys received from the federal government or private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received;
- (2) With the concurrence of the director of finance, moneys in trust or revolving funds administered by the community hospitals may be deposited in depositories other than the state treasury; and
- (3) Amounts of less than \$1,000 collected from patients and health insurance providers shall be deposited into the appropriate collections revolving fund established under section 323-74.

At the beginning of each quarterly allotment period, the director shall assess from each hospital special fund an amount equal to two per cent of the moneys in the hospital special fund and deposit those amounts into the facility administration fund established in subsection (b). At the end of each quarterly allotment period, the director shall transfer all moneys remaining in a hospital special fund not required for the lawful operating expenditures of the hospital for that quarterly allotment period into the facility administration fund [; provided that public]. Public health facilities that do not receive general fund augmentation may retain [not more than twenty-five] one hundred per cent of their unrequired special fund revenues in their respective hospital special funds for payment of their lawful operating expenditures. [The director shall determine the percentage that a public health facility not supported by general funds may retain in its hospital special fund. The amounts the director may transfer shall include all unrequired special fund balances from prior years.]

(b) There is established within the department of health a special fund to be known as the facility administration fund. The facility administration fund shall be

used to defray the general administrative costs of the division and provide supplemental funds to public health facilities that do not have sufficient moneys in their special funds to cover their required lawful operating expenditures, including contingencies for correcting hospital deficiencies cited by agencies that monitor and evaluate the division. [If the balance in the facility administration fund at the end of any fiscal year exceeds ten per cent of the expenditures of all the public health facilities for that fiscal year, the funds in excess of ten per cent of the expenditures shall be transferred by the director to the general fund. The director may also transfer funds from the facility administration fund to the general fund at any time pursuant to section 37-53.]

(c) Any other law to the contrary notwithstanding, a separate special fund shall be established for each system of public health facilities for which revenue bonds have been issued. All income, revenues, and receipts derived from the ownership or operation of the particular system shall be deposited in the special fund and applied in accordance with section 39-62 and the resolution or certificate authorizing and securing the revenue bonds. For the purposes of determining the amount to be assessed against a special fund established pursuant to this subsection, the director may separately allocate a portion of the special fund to each separate public health facility that constitutes a component of the system, or assess from the special fund as a whole.

(d) The director shall submit an annual report to the legislature, twenty days prior to the convening of each regular session, that identifies all fund balances and ceiling increases in the various hospital and facility funds, the transfers and expenditures made from the funds, and the purposes of the expenditures.

(e) The division shall maintain the budgetary organization codes utilized in fiscal year 1994-1995 for each public health facility as an internal reporting and accounting mechanism.”

SECTION 11. Section 2, Act 211, Session Laws of Hawaii 1993, as amended by section 5, Act 188, Session Laws Hawaii 1994, is amended to read as follows:

“SECTION 2. The department of health, through its director, shall formulate policies for the autonomous operation of the community hospitals until June 30, 1996. The provisions of this Act shall apply to Hilo Hospital, Maui Memorial Hospital, Kona Hospital, Kauai Veterans Memorial Hospital, Leahi Hospital, Maluhia Hospital, Kula Hospital, Samuel Mahelona Memorial Hospital, Ka’u Hospital, Honokaa Hospital, Kohala Hospital, Lanai Community Hospital, Hana Medical Center, and the division of community hospitals administrative staff office to the extent that it is acting on behalf of any or all of the community hospitals.

The division of community hospitals, department of health, is authorized to trade off and transfer, or establish positions within the existing authorized position count ceilings.”

SECTION 12. Section 6 of Act 211, Session Laws of Hawaii 1993, as amended by section 3 of Act 193, Session Laws of Hawaii 1994, is further amended to read as follows:

“SECTION 6. (a) In order to achieve the benefits of a decentralized and relatively unencumbered autonomous operation, the hospitals specified in section 2 shall be granted flexibility in the hiring of personnel and the collection and disbursement of funds by being exempt from [sections 103-42 to 103-48,] part X, chapter 103D, Hawaii Revised Statutes, relating to [advertising for bids and] purchases to be made in Hawaii whenever public moneys are expended for the duration of the pilot project.



(b) The hospitals covered under the pilot autonomy project shall not be subject to any requirement of law for competitive bidding and preferences, including the requirements of sections 103D-301 to 103D-304, 103D-306 to 103D-315, and 103D-1001 to 103D-1006, Hawaii Revised Statutes.”

SECTION 13. Act 192, Session Laws of Hawaii 1994, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval and sections 1, 2, 4, 5, and 6 shall be repealed on June 30, 1996; provided that [sections 323-70 and] section 323-73, Hawaii Revised Statutes, [are] is reenacted in the form in which [they] it read on the day before the approval of this Act.”

SECTION 14. Act 212, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. (a) Except for positions in the department of education [and], the University of Hawaii, and the division of community hospitals of the department of health, with respect to positions in the executive branch vacated pursuant to section 2:

- (1) Thirty per cent of the positions vacated in each department may be refilled by the head of the department to ensure the continued ability of the department to carry out its public purpose;
- (2) Thirty per cent of the positions vacated in each department shall be held vacant for fiscal year 1995-1996 and shall be assigned to a statewide personnel pool; provided that after June 30, 1996, the governor may propose the transfer of vacant positions between executive departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget; and
- (3) Forty per cent of the positions vacated in each department shall be eliminated.
- (b) With respect to positions in the judiciary vacated pursuant to section 2:
  - (1) Thirty per cent of the positions vacated may be refilled by the chief justice to ensure the continued ability of the judiciary to carry out its public purpose;
  - (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; and
  - (3) Forty per cent of the positions vacated shall be eliminated.
- (c) With respect to positions in the University of Hawaii vacated pursuant to

section 2:

- (1) Seventy per cent of the positions vacated may be refilled by the president of the University of Hawaii, with the approval of the board of regents; provided that these positions shall be reallocated as necessary to restructure and organize the university to ensure the continued provision of appropriate, direct, student-related services; and
- (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; provided that after June 30, 1996, the president of the University of Hawaii may propose the transfer of vacant positions between divisions, programs, and departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget.

(d) With respect to positions in the department of education vacated pursuant to section 2, twenty per cent of the vacated statewide administrative positions shall be eliminated.

(e) With respect to positions vacated in the division of community hospitals pursuant to section 2:

- (1) One hundred per cent of the positions vacated may be filled by the director of health;
- (2) None of the positions vacated shall be held vacant for fiscal year 1995-1996; and
- (3) None of the positions vacated shall be eliminated.

[(e)] (f) Funding allocations for positions vacated pursuant to this Act and refilled pursuant to this section shall be computed on the basis of the average monthly salary of the department from which the person retired, and shall be distributed accordingly. All amounts already allocated for positions vacated pursuant to this Act shall be returned to the general fund. Each department shall report its position reallocations to the director of finance, who shall report this information to the legislature no later than twenty days prior to the convening of the regular session of 1996.”

SECTION 15. The division of community hospitals shall submit a report to the legislature no later than twenty days prior to the convening of the 1996 regular session regarding the status of all trade off and transfer requests made during the 1995-1996 fiscal year.

SECTION 16. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 17. This Act shall take effect upon its approval; provided that sections 3 and 4 shall apply retroactive to July 1, 1993 and any funds withdrawn under these sections shall be returned within ninety days of the approval of this Act.

(Approved June 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 212**

S.B. NO. 1778

A Bill for an Act Relating to Public Agency Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 92, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

“§92- **Limited meetings.** (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, and the attorney general concurs, the board may hold a limited meeting in that location, which is not open to the public; provided that at a regular meeting of the board prior to meeting at the dangerous location:

- (1) The board determines that it is necessary to hold the meeting at the dangerous location and specifies the reasons for its determination that the location is dangerous to health or safety;
- (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1) and to conduct the meeting; and

- (3) Notice of the limited meeting is provided in accordance with section 92-7.
- (b) At all limited meetings, the board shall:
  - (1) Videotape the meeting, unless the requirement is waived by the attorney general, and comply with all requirements of section 92-9;
  - (2) Make the videotape available at the next regular meeting; and
  - (3) Make no decisions at the meeting."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 213**

H.B. NO. 1959

A Bill for an Act Relating to Conciliation Panels.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 671, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§671- Waiver of filing fee.** (a) If any party to a claim cannot pay the required filing fee, the party may file with the director a motion to waive the filing fee. The motion to waive the filing fee shall be accompanied by an affidavit in a format prescribed by the department, showing in detail:

- (1) The party's inability to pay the filing fee;
- (2) The party's belief that the party is entitled to redress; and
- (3) A statement of the issues that the party intends to present at the hearing before a medical claims conciliation panel.

(b) The director shall decide on the motion to waive the filing fee as expeditiously as possible, and no oral arguments shall be permitted.

(c) If the director grants the motion to waive the filing fee, the party may proceed without further application to the director or panel, and without payment of the filing fee. If the motion is denied, the director shall state the reasons for the denial in writing. The director shall promptly provide the party with a filed copy of the director's order granting or denying the motion.

(d) If a motion to waive the filing fee is denied by the director, the party may seek judicial review under section 91-14.

(e) If the director denies a party's motion to waive the filing fee, the party shall pay the filing fee within thirty days after the denial of the motion, unless the party has filed an appeal under section 91-14. If the party has filed an appeal under section 91-14, the party may proceed without payment of the filing fee, until such time as a final judicial determination is rendered.

(f) If the party files an appeal under section 91-14, and the court upholds the director's denial of the aggrieved party's motion to waive the filing fee, the party shall pay the filing fee within thirty days after the court's affirmation of the denial. If the court determines that the party's motion for waiver of the filing fee was improperly denied, the party shall be entitled to proceed without payment of the filing fee."

SECTION 2. Section 671-11, Hawaii Revised Statutes, is amended to read as follows:

**“§671-11 Medical claim conciliation panels; composition, selection, compensation.** (a) There are established medical claim conciliation panels which shall review and render findings and advisory opinions on the issues of liability and damages in medical tort claims against health care providers.

(b) A medical claim conciliation panel shall be formed for each claim filed pursuant to section 671-12 and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one physician or surgeon licensed to practice under chapter 453 or chapter 460. The chairperson shall be appointed by the director of the department of commerce and consumer affairs from a list of eligible persons approved by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson and shall be currently licensed and in good standing under chapter 453 or under chapter 460.

(c) The chairperson shall preside at the meetings of the panel. The chairperson, all panel members, and any consultant called by the panel to appear before the panel shall be compensated at the rate of \$300 per claim which will become payable when the decision of the panel is submitted. At the discretion of the director, the chairperson, panel members, and any consultant called by the panel to appear before the panel, may be compensated at one-half the amount of compensation specified in this section, if the claim is disposed of by any means prior to the hearing by the panel. The chairperson, all panel members, and any consultant called by the panel to appear before the panel also shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on or for the panel. These costs shall be paid by the department of commerce and consumer affairs[,] from the filing fees paid by the parties.

(d) The claimant shall pay a filing fee of \$450 to the department upon the filing of the claim and the failure to do so shall result in the claim being rejected for filing. Each health care provider and other parties to the claim shall pay a filing fee of \$450 to the department within twenty days of being served with the claim. Each party to a claim shall be assessed a non-refundable processing fee by the department in the amount of \$50. The non-refundable processing fee shall be retained from each party's filing fee, and shall be used to defray the administrative costs of the medical claims conciliation panel program.

(e) After the panel has made a final decision on a claim, or after a final disposition of the claim has been made without a hearing before the panel, the department shall return any moneys remaining after all panel costs have been paid, to the respective parties on a pro rata basis.

(f) The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department. The chairperson may designate any alternative meeting place or site for the hearing.

(g) The board of medical examiners and board of osteopathic examiners shall each prepare a list of [physicians, surgeons, podiatrists, or] physicians, surgeons, and podiatrists, as the case may be, along with their respective specialties. These physicians and surgeons shall be eligible to serve as consultants to the panel in their respective fields. Panel members may consult with other legal, medical, and insurance specialists.”

SECTION 3. Section 671-19, Hawaii Revised Statutes, is amended to read as follows:

**“§671-19 Duty to cooperate; assessment of costs and fees.** It shall be the duty of every person who files a claim with the medical claim conciliation panel, every health care provider against whom [such] the claim is made, and every insurance carrier or other person providing medical tort liability insurance for [such] the health care provider, to cooperate with the medical claim conciliation panel for the purpose of achieving a prompt, fair, and just disposition or settlement of [such] the claim, provided that [such] cooperation shall not prejudice the substantive rights of those persons.

Any party may apply to the panel to have the costs of the action assessed against any party for failure to cooperate with the panel. The panel may award [such] costs, or a portion thereof, including attorney’s fees, witness fees, including those of expert witnesses, filing fees, and costs of the medical claim conciliation panel hearing to the party applying therefor.

In determining whether any person has failed to cooperate in good faith, the panel shall consider, but is not limited to, the following:

- (1) The attendance of the persons at the hearing of the medical claim conciliation panel;
- (2) The extent to which representatives of parties and counsel representing parties came to panel hearings with knowledge of the claims and defenses and authority to negotiate a settlement or other disposition of the claim;
- (3) The testimony of members of the panel as to the facts of the person’s participation in the panel hearing;
- (4) The extent of the person’s cooperation in providing the panel with documents and testimony called for by the panel; [and]
- (5) The reasons advanced by the person so charged for not fully cooperating or negotiating[.]; and
- (6) The failure of the person to submit any required fees to the department of commerce and consumer affairs, as required by this chapter.

The party against whom costs are awarded may appeal the award to the circuit court. The court may affirm or remand the case with instructions for further proceedings; or it may reverse or modify the award if the substantial rights of the petitioners may have been prejudiced because the award is characterized as abuse of discretion.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

**“§321- Certified forensic examination fees.** (a) The department of health, by rules adopted pursuant to chapter 91, shall establish fees for application and certification as certified forensic examiners, to be paid by the applicant at the onset of the application process. The fees shall cover the costs of training, examination, certification, and monitoring.

(b) All moneys collected as fees pursuant to subsection (a) shall be deposited into the mental health and substance abuse special fund established by section 334-15.

(c) All funds deposited in the mental health and substance abuse special fund pursuant to subsection (b) shall be used exclusively to support the activities relating to the application, training, certification, and monitoring of the certified forensic examination program.”

SECTION 2. Section 334-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund to be known as the mental health and substance abuse special fund into which shall be deposited all revenues and other moneys collected from certification programs and treatment services rendered by the mental health and substance abuse programs operated by the State. Notwithstanding any other law to the contrary, the department is authorized to establish separate accounts within the special fund for depositing moneys received from certification programs and from each mental health and substance abuse program. Moneys deposited into the respective accounts of each program shall be used for the payment of the operating expenses of the respective program.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Disposition of Defendants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-605, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Except as provided in parts II and IV of this chapter and subsection (2) of this section and subject to the applicable provisions of this Code, the court may sentence a convicted defendant to one or more of the following dispositions:

- (a) To be placed on probation as authorized by part II of this chapter;
- (b) To pay a fine as authorized by part III and section 706-624 of this chapter;
- (c) To be imprisoned for a term as authorized by part IV of this chapter;
- (d) To make restitution in an amount the defendant can afford to pay; provided that the court may order any restitution to be paid to the criminal injuries compensation commission in the event that the victim has been given an award for compensation under chapter 351 and, if the court orders, in addition to restitution, payment of fine in accordance with paragraph (b), the payment of restitution shall have priority over the payment of the fine; or
- (e) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or appropriate supervisor, provided that the convicted person who performs such services shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. All persons sentenced to perform community service shall be screened and assessed for appropriate placement by a governmental agency coordinating public service work placement as a condition of sentence.”

SECTION 2. This Act does not affect the rights and duties that were matured, penalties that were incurred, and the proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

## ACT 216

H.B. NO. 2324

A Bill for an Act Relating to Motor Vehicle Safety Responsibility.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 287-4, Hawaii Revised Statutes, is amended to read as follows:

“**§287-4 Report required following accident.** The driver of every motor vehicle which is in any manner involved in an accident within this State in which any person is killed or injured or in which damage to the property of any one person, including the driver, to an apparent extent in excess of [\$1,000] \$3,000 is sustained shall at the earliest practical time, and in any event within twenty-four hours after the accident, report the matter in writing or in person to the chief of police. The report, the form of which shall be prescribed by the chief of police and administrator, shall contain information to enable the administrator to determine whether the requirements for the deposit of security under sections 287-5 and 287-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. If the driver is physically incapable of making the report, any other occupant in the vehicle at the time of the accident capable of making the report shall make or cause to be made the report not

made by the driver, and the registered owner of the motor vehicle involved in the accident shall, unless the report is filed, within ten days after learning of the accident make the report. The driver, occupant, and registered owner shall furnish such additional relevant information as the chief of police or administrator shall require. If the reports required hereunder are made pursuant to any ordinance or other provision or requirement of law, no additional report, except as specifically provided herein, shall be required hereby.”

SECTION 2. Section 287-5, Hawaii Revised Statutes, is amended to read as follows:

“§287-5 Security required unless evidence of insurance. If twenty days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to property of any one person in excess of [\$1,000] \$3,000,<sup>1</sup> the administrator does not have on file evidence satisfactory to the administrator that the person who would otherwise be required to file security under section 287-6 has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the administrator shall determine the amount of security which is sufficient in the administrator’s judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each driver or owner. This section shall be applicable to each driver or owner notwithstanding that the administrator determines that the amount of security required hereunder shall as to any such driver or owner be less than [\$1,000.] \$3,000.”

SECTION 3. Section 291C-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The driver of a vehicle involved in an accident resulting in injury or death of any person or total damage to all property to an apparent extent of [\$1,000] \$3,000 or more shall immediately by the quickest means of communication give notice of the accident to the nearest police office. If sent to the site of the accident, a responding police officer shall file a written report if it appears at the time that the accident has resulted in the injury or death of any person, or total damage to all property to an apparent extent of \$3,000 or more.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 20, 1995.)

**Note**

1. Comma should not be underscored.

**ACT 217**

H.B. NO. 1686

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii has one of the most generous retiree health plans in the nation. While it has always been important to ensure the



health and well-being of Hawaii's citizens, it is also important to maintain the financial integrity of our employee and retiree benefit systems. Currently, our retiree health benefit payouts are increasing by twelve per cent per year, and the State and counties are paying out twice as much for retiree health benefits as for active employee benefits. It is clear that we must take steps to preserve the integrity of the current system while ensuring that no current retirees or employees have the terms of their health benefit contracts altered.

The purpose of this Act is to require employees hired after July 1, 1996 to make a partial contribution to their retiree health benefit premiums.

SECTION 2. Chapter 87, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§87- State and county contributions to fund; employees hired after July 1, 1996, and retired with fewer than twenty-five years of service.** (a) This section shall apply to state and county contributions to the fund for employees who were hired after July 1, 1996, and who retire with fewer than twenty-five years of credited service, excluding sick leave.

(b) The State, through the department of budget and finance and the several counties through their respective departments of finance, shall pay to the fund a monthly contribution equal to one-half of the retired employee's monthly medicare or nonmedicare premium for the following benefits for employees with ten or more years but fewer than fifteen years of service; and seventy-five per cent of the retired employee's monthly medicare or nonmedicare premium for the following benefits for employees with at least fifteen but fewer than twenty-five years of service:

- (1) For hospital, medical, and surgical benefits of a health benefits plan for each of their respective employee-beneficiaries or their respective employee-beneficiaries and their dependent-beneficiaries enrolled under this section;
- (2) For prescription drug benefits of a health benefits plan for each of their respective employee-beneficiaries or their respective employee-beneficiaries and their dependent-beneficiaries enrolled under this section;
- (3) For vision care benefits of a health benefits plan for each of their respective employee-beneficiaries or their respective employee-beneficiaries and their dependent-beneficiaries enrolled under this section; and
- (4) For adult dental benefits of a health benefits plan for each of their respective employee-beneficiaries or their respective employee-beneficiaries and their spouses enrolled under this section.

If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county, after an employee's retirement pursuant to this section, shall not exceed the monthly contribution of a family plan for both of them.

(c) The State, through the department of budget and finance and the several counties through their respective departments of finance, after an employee's retirement pursuant to this section, shall pay to the fund a monthly contribution equal to the total monthly premium for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled in the fund's dental plan for children under this section.

(d) The State, through the department of budget and finance and the several counties through their respective departments of finance, shall pay to the fund a monthly contribution equal to the total monthly premium for each retired employee enrolled in the fund's group life insurance benefits plan under this section.

(e) For the purpose of this section, the retired employee's monthly medicare and nonmedicare premiums for the hospital, medical, and surgical plan, the prescription drug plan, the vision care plan, and the adult dental plan shall be established annually by the board and shall be equal to the retired employee's medicare and nonmedicare premiums for the hospital, medical, and surgical plan, the prescription drug plan, the vision care plan, and the adult dental plan contracted by the fund with the largest enrollments.

(f) The State, through the department of budget and finance and the several counties through their respective departments of finance, shall advance the amount of their respective employee-beneficiaries' contributions to the fund on or before the first day of each month.

(g) Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 3. Section 87-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This section shall apply to state and county contributions to the fund for employees specified in section 87-1(5)(A)(v), except those hired after July 1, 1996, under section 87-, who retire after June 30, 1984, with fewer than ten years of credited service, excluding sick leave."

SECTION 4. Section 87-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding any other law to the contrary[, the]:

(1) The beneficiary of an employee who is killed in the performance of duty[, an];

(2) An employee-beneficiary who retired after June 30, 1984, due to a disability as defined in sections 88-77, 88-79, and 88-285[, an];

(3) An employee-beneficiary who retired before July 1, 1984[, an];

(4) An employee-beneficiary who [retired]:

(A) Was hired before July 1, 1996;

(B) Retired after June 30, 1984[,]; and [who]

(C) Who had ten years or more of credited service, excluding sick leave[,]; and

(5) An employee-beneficiary who was hired after July 1, 1996, and who had twenty-five or more years of credited service, excluding sick leave;

or upon death their beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the persons identified in this subsection shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries."

SECTION 5. The board of trustees of the employees' retirement system of the State of Hawaii shall study, investigate, and evaluate the impact on the retirement system if the percentage factor of the retirement benefits formula were raised for non-contributory employees from one and one-fourth per cent to one and two-fifths per cent. The board of trustees of the Hawaii employees' retirement system

shall report its findings and recommendations to the legislature twenty days before the convening of the Regular Session of 1996.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on January 1, 1995.

(Approved June 20, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 218

H.B. NO. 1220

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I. GENERAL PROVISIONS

SECTION 1. **SHORT TITLE.** This Act shall be known and may be cited as the General Appropriations Act of 1995.

SECTION 2. **DEFINITIONS.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, office of Hawaiian affairs and judiciary), the political subdivisions of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency shall mean the following:

|     |   |
|-----|---|
| AGR | Department of Agriculture                                 |
| AGS | Department of Accounting and General Services             |
| ATG | Department of the Attorney General                        |
| BED | Department of Business, Economic Development, and Tourism |
| BUF | Department of Budget and Finance                          |
| CCA | Department of Commerce and Consumer Affairs               |
| DEF | Department of Defense                                     |
| EDN | Department of Education                                   |
| GOV | Office of the Governor                                    |
| HHL | Department of Hawaiian Home Lands                         |
| HMS | Department of Human Services                              |
| HRD | Department of Human Resources Development                 |
| HTH | Department of Health                                      |
| LBR | Department of Labor and Industrial Relations              |
| LNR | Department of Land and Natural Resources                  |
| LTG | Office of the Lieutenant Governor                         |

|     |                              |
|-----|------------------------------|
| PSD | Department of Public Safety  |
| SUB | Subsidies                    |
| TAX | Department of Taxation       |
| TRN | Department of Transportation |
| UOH | University of Hawaii         |
| CCH | City and County of Honolulu  |
| COH | County of Hawaii             |
| COK | County of Kauai              |
| COM | County of Maui               |

(c) "Means of Financing," or "MOF," means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

|   |   |
|---|---|
| A | general fund  |
| B | special funds   |
| C | general obligation bond fund  |
| D | general obligation bond fund with debt service cost to be paid from special funds |
| E | revenue bond funds  |
| J | federal aid interstate funds  |
| K | federal aid primary funds   |
| L | federal aid secondary funds   |
| M | federal aid urban funds   |
| N | other federal funds   |
| R | private contributions   |
| S | county funds  |
| T | trust funds   |
| U | interdepartmental transfers   |
| W | revolving funds   |
| X | other funds   |

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

## PART II. PROGRAM APPROPRIATIONS

**SECTION 3. APPROPRIATIONS.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 1995, and ending June 30, 1997. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this Act.

## PROGRAM APPROPRIATIONS

| ITEM NO.  | PROG. ID  | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|---|-----------|---------|------------------|---------------------|-------|---------------------|-------|
|   |           |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| A. ECONOMIC DEVELOPMENT   |           |         |                  |                     |       |                     |       |
| 1. BED102 - COMMERCE AND INDUSTRY                                     |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | BED              | 36.00*              |       | 36.00*              |       |
|   |           |         | BED              | 8,425,374A          |       | 7,776,099A          |       |
|   |           |         | BED              | 1,721,988B          |       | 1,763,407B          |       |
|   |           |         | BED              | 173,192U            |       | 173,192U            |       |
|   |           |         | BED              | 4,250,000W          |       | 4,250,000W          |       |
| 2. BED113 - STATE TOURISM OFFICE                                      |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | BED              | 6.00*               |       | 6.00*               |       |
|   |           |         | BED              | 27,399,255A         |       | 27,399,255A         |       |
|   |           |         | BED              | 13,000,000B         |       | 17,000,000B         |       |
| 3. BED107 - FOREIGN TRADE   |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | BED              | 23.00*              |       | 23.00*              |       |
|   |           |         | BED              | 1,776,923B          |       | 1,756,423B          |       |
| 4. AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE                      |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 13.00*              |       | 13.00*              |       |
|   |           |         | AGR              | 950,020B            |       | 950,020B            |       |
|   |           |         | AGR              | 59,400T             |       | 59,400T             |       |
|   |           |         | AGR              | 6,000,000W          |       | 5,500,000W          |       |
| 5. AGR122 - PLANT PEST AND DISEASE CONTROL                            |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 95.00*              |       | 95.00*              |       |
|   |           |         | AGR              | 3,776,329A          |       | 3,809,614A          |       |
|   |           |         | AGR              | 275,355N            |       | 275,355N            |       |
|   |           |         | AGR              | 328,600T            |       | 328,600T            |       |
|   |           |         | AGR              | 300,450U            |       | 300,450U            |       |
| 6. AGR131 - ANIMAL QUARANTINE   |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 59.00*              |       | 59.00*              |       |
|   |           |         | AGR              | 2,249,864A          |       | 2,241,534A          |       |
|   |           |         | AGR              | 237,857U            |       | 237,857U            |       |
| 7. AGR132 - ANIMAL DISEASE CONTROL                                    |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 20.50*              |       | 20.50*              |       |
|   |           |         | AGR              | 1,030,024A          |       | 1,005,149A          |       |
|   |           |         | AGR              | 54,230T             |       | 54,230T             |       |
| 8. LNR172 - FORESTRY - PRODUCTS DEVELOPMENT                           |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | LNR              | 23.50*              |       | 23.50*              |       |
|   |           |         | LNR              | 915,612A            |       | 997,612A            |       |
|   |           |         | LNR              | 200,000B            |       | 200,000B            |       |
|   |           |         | LNR              | 2.00*               |       | 2.00*               |       |
|   |           |         | LNR              | 124,505N            |       | 124,505N            |       |
| 9. AGR151 - MARKETING INFO & DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 55.00*              |       | 55.00*              |       |
|   |           |         | AGR              | 2,793,679A          |       | 2,802,151A          |       |
|   |           |         | AGR              | 32,199N             |       | 26,924N             |       |
|   |           |         | AGR              | 137,000T            |       | 137,000T            |       |
|   |           |         | AGR              | 82,000W             |       | 193,000W            |       |
| 10. AGR141 - AGRICULTURAL RESOURCE MANAGEMENT                         |           |         |                  |                     |       |                     |       |
|   | OPERATING |         | AGR              | 24.00*              |       | 24.00*              |       |
|   |           |         | AGR              | 343,720A            |       | 343,720A            |       |
|   |           |         | AGR              | 331,549B            |       | 344,613B            |       |

## PROGRAM APPROPRIATIONS

| ITEM NO.             | PROG. ID | PROGRAM                                       | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------------------|----------|---|------------------|---------------------|-------|---------------------|-------|
|                      |          |   |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|                      |          | INVESTMENT CAPITAL                            | AGR              | 703,427W            |       | 710,842W            |       |
|                      |          |   | AGR              | 1,565,000C          |       | 1,400,000C          |       |
| 11.                  | AGR192   | GENERAL ADMINISTRATION FOR AGR                |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | AGR              | 36.00*              |       | 36.00*              |       |
|                      |          | INVESTMENT CAPITAL                            | AGS              | 1,819,420A          |       | 1,556,900A          |       |
|                      |          |   |                  | 50,000C             |       | C                   |       |
| 12.                  | AGR102   | FINANCIAL ASSISTANCE FOR AQUACULTURE          |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | AGR              | 500,000W            |       | 500,000W            |       |
| 13.                  | LNR153   | COMMERCIAL FISHERIES AND AQUACULTURE          |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | LNR              | 20.00*              |       | 20.00*              |       |
|                      |          |   | LNR              | 1,567,244A          |       | 1,567,244A          |       |
|                      |          |   | LNR              | 268,210N            |       | 268,210N            |       |
| 14.                  | BED120   | ENERGY DEVELOPMENT AND MANAGEMENT             |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | BED              | 7.00*               |       | 7.00*               |       |
|                      |          |   | BED              | 2,257,837A          |       | 2,517,837A          |       |
|                      |          |   | BED              | 959,000B            |       | 759,000B            |       |
|                      |          | INVESTMENT CAPITAL                            | BED              | 3,031,326N          |       | 3,031,326N          |       |
|                      |          |   | BED              | 290,000C            |       | C                   |       |
| 15.                  | LNR141   | WATER AND LAND DEVELOPMENT                    |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | LNR              | 6.00*               |       | 6.00*               |       |
|                      |          |   | LNR              | 468,700A            |       | 468,700A            |       |
|                      |          |   | LNR              | 110,000W            |       | 110,000W            |       |
|                      |          | INVESTMENT CAPITAL                            | LNR              | 332,000B            |       | 2,306,000B          |       |
|                      |          |   | LNR              | 11,166,000C         |       | 6,707,000C          |       |
|                      |          |   | LNR              | 711,000W            |       | 954,000W            |       |
| 16.                  | BED130   | ECON PLANNING & RESEARCH FOR ECON DEVELOPMENT |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | BED              | 11.00*              |       | 11.00*              |       |
|                      |          |   |                  | 531,715A            |       | 531,715A            |       |
| 17.                  | BED142   | GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT      |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | BED              | 38.00*              |       | 38.00*              |       |
|                      |          |   | BED              | 2,420,532A          |       | 2,420,532A          |       |
|                      |          |   | BED              | 2,316,196B          |       | 2,391,940B          |       |
| <b>B. EMPLOYMENT</b> |          |   |                  |                     |       |                     |       |
| 1.                   | LBR111   | PLACEMENT SERVICES                            |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | LBR              | 87,281A             |       | 87,281A             |       |
|                      |          |   | LBR              | 549,372B            |       | 552,915B            |       |
|                      |          |   |                  | 109.50*             |       | 109.50*             |       |
|                      |          |   | LBR              | 12,682,268N         |       | 13,263,246N         |       |
|                      |          |   | LBR              | 1,956,971U          |       | 1,574,201U          |       |
| 2.                   | LBR123   | APPRENTICESHIP & OTHER TRAINING PROGRAMS      |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | LBR              | 6.00*               |       | 6.00*               |       |
|                      |          |   |                  | 240,956A            |       | 240,956A            |       |
| 3.                   | LBR131   | EMPLOYMENT AND TRAINING PROGRAMS              |                  |                     |       |                     |       |
|                      |          | OPERATING                                     | LBR              | 3.00*               |       | 3.00*               |       |
|                      |          |   | LBR              | 429,185A            |       | 429,185A            |       |
|                      |          |   | LBR              | 3,680,029B          |       | 3,801,156B          |       |
|                      |          |   |                  | 11.00*              |       | 11.00*              |       |
|                      |          |   | LBR              | 16,056,380N         |       | 16,592,652N         |       |

PROGRAM APPROPRIATIONS

| ITEM<br>NO. | PROG.<br>ID   | PROGRAM | EXPENDING<br>AGENCY | APPROPRIATIONS            |             |                           |             |
|-------------|---|---------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |   |         |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
| 4.          | LBR135 - COMMISSION ON EMPLOYMENT & HUMAN RESOURCES |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 5.00*                     |             | 5.00*                     |             |
|             |   |         | LBR                 | 229,878A                  |             | 229,878A                  |             |
|             |   |         | LBR                 | 234,639N                  |             | 234,639N                  |             |
| 5.          | LBR136 - SCHOOL TO WORK TRANSITION CENTER PROGRAM   |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 1,441,135A                |             | 1,441,135A                |             |
| 6.          | LBR143 - OCCUPATIONAL SAFETY & HEALTH               |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 51.50*                    |             | 51.50*                    |             |
|             |   |         | LBR                 | 1,805,091A                |             | 1,805,091A                |             |
|             |   |         | LBR                 | 27.50*                    |             | 27.50*                    |             |
|             |   |         | LBR                 | 1,554,136N                |             | 1,565,359N                |             |
| 7.          | LBR152 - WAGE STANDARDS & FAIR EMPLOYMENT PRACTICES |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 32.35*                    |             | 32.35*                    |             |
|             |   |         | LBR                 | 1,146,525A                |             | 1,146,525A                |             |
| 8.          | LBR153 - CIVIL RIGHTS COMMISSION                    |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 25.50*                    |             | 25.50*                    |             |
|             |   |         | LBR                 | 1,170,178A                |             | 1,170,178A                |             |
|             |   |         | LBR                 | 176,316N                  |             | 178,414N                  |             |
| 9.          | LBR161 - PUBLIC AND PRIVATE EMPLOYMENT              |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 2.00*                     |             | 2.00*                     |             |
|             |   |         | LBR                 | 531,098A                  |             | 531,098A                  |             |
| 10.         | LBR171 - UNEMPLOYMENT COMPENSATION                  |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 4,501,534A                |             | 4,501,534A                |             |
|             |   |         | LBR                 | 160,901,296B              |             | 166,507,172B              |             |
|             |   |         | LBR                 | 231.90*                   |             | 231.90*                   |             |
|             |   |         | LBR                 | 11,595,849N               |             | 11,688,470N               |             |
| 11.         | LBR183 - DISABILITY COMPENSATION                    |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 127.30*                   |             | 127.30*                   |             |
|             |   |         | LBR                 | 4,244,480A                |             | 4,244,480A                |             |
|             |   |         | LBR                 | 17,560,000B               |             | 18,060,000B               |             |
| 12.         | HMS802 - VOCATIONAL REHABILITATION                  |         |                     |                           |             |                           |             |
|             | OPERATING   |         | HMS                 | 26.17*                    |             | 26.17*                    |             |
|             |   |         | HMS                 | 3,853,427A                |             | 3,783,427A                |             |
|             |   |         | HMS                 | 773,814B                  |             | 773,814B                  |             |
|             |   |         | HMS                 | 90.33*                    |             | 90.33*                    |             |
|             | INVESTMENT CAPITAL                                  |         | HMS                 | 7,850,276N                |             | 7,850,276N                |             |
|             |   |         | HMS                 | 87,000N                   |             | 112,000N                  |             |
| 13.         | LBR901 - DLIR-DATA GATHERING, RESEARCH AND ANALYSIS |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 14.88*                    |             | 14.88*                    |             |
|             |   |         | LBR                 | 1,253,842A                |             | 1,253,842A                |             |
|             |   |         | LBR                 | 23.12*                    |             | 23.12*                    |             |
|             |   |         | LBR                 | 1,673,263N                |             | 1,691,839N                |             |
| 14.         | LBR902 - GENERAL ADMINISTRATION                     |         |                     |                           |             |                           |             |
|             | OPERATING   |         | LBR                 | 33.12*                    |             | 33.12*                    |             |
|             |   |         | LBR                 | 1,384,168A                |             | 1,384,168A                |             |
|             |   |         | LBR                 | 29.52*                    |             | 29.52*                    |             |
|             |   |         | LBR                 | 1,961,346N                |             | 1,985,186N                |             |
| 15.         | LBR903 - OFFICE OF COMMUNITY SERVICES               |         |                     |                           |             |                           |             |
|             |   |         |                     | 5.00*                     |             | 5.00*                     |             |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM                                    | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|----------|--|------------------|---------------------|-------|---------------------|-------|
|          |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |          | OPERATING                                  | LBR              | 8,037,724A          |       | 7,787,724A          |       |
|          |          |  |                  | 3.00*               |       | 3.00*               |       |
|          |          | INVESTMENT CAPITAL                         | LBR              | 5,363,957N          |       | 5,540,539N          |       |
|          |          |  | LBR              | 5,000,000C          |       |                     | C     |
| 16.      | LBR812   | LABOR & INDUSTRIAL RELATIONS APPEALS BOARD |                  |                     |       |                     |       |
|          |          |  |                  | 12.00*              |       | 12.00*              |       |
|          |          | OPERATING                                  | LBR              | 582,432A            |       | 582,432A            |       |

C. TRANSPORTATION FACILITIES

1. TRN102 - HONOLULU INTERNATIONAL AIRPORT
 

|                    |     |             |             |
|--------------------|-----|-------------|-------------|
| OPERATING          | TRN | 611.00*     | 611.00*     |
| INVESTMENT CAPITAL | TRN | 68,697,541B | 69,221,912B |
|                    | TRN | 13,931,000B | 2,395,000B  |
|                    | TRN | 3,770,000E  | 1,695,000E  |
|                    | TRN | 8,000,000N  | 7,650,000N  |
2. TRN104 - GENERAL AVIATION
 

|           |     |          |          |
|-----------|-----|----------|----------|
| OPERATING | TRN | 2.00*    | 2.00*    |
|           |     | 914,817B | 930,415B |
3. TRN111 - HILO INTERNATIONAL AIRPORT
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | TRN | 78.00*     | 78.00*     |
|           |     | 7,895,722B | 7,591,465B |
4. TRN114 - KE-AHOLE AIRPORT
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | TRN | 78.00*     | 78.00*     |
|           |     | 7,117,872B | 7,568,332B |
5. TRN116 - WAIMEA-KOHALA AIRPORT
 

|           |     |          |          |
|-----------|-----|----------|----------|
| OPERATING | TRN | 2.00*    | 2.00*    |
|           |     | 127,358B | 128,855B |
6. TRN118 - UPOLU AIRPORT
 

|           |     |        |        |
|-----------|-----|--------|--------|
| OPERATING | TRN | 7,207B | 7,473B |
|-----------|-----|--------|--------|
7. TRN131 - KAHULUI AIRPORT
 

|                    |     |             |             |
|--------------------|-----|-------------|-------------|
| OPERATING          | TRN | 176.00*     | 176.00*     |
| INVESTMENT CAPITAL | TRN | 15,049,969B | 13,923,433B |
|                    | TRN | 11,404,000B | 60,000B     |
|                    | TRN | 2,885,000E  | E           |
|                    | TRN | 7,000,000N  | N           |
8. TRN133 - HANA AIRPORT
 

|           |     |          |          |
|-----------|-----|----------|----------|
| OPERATING | TRN | 2.00*    | 2.00*    |
|           |     | 188,432B | 144,198B |
9. TRN135 - KAPALUA AIRPORT
 

|           |     |          |          |
|-----------|-----|----------|----------|
| OPERATING | TRN | 5.00*    | 5.00*    |
|           |     | 898,453B | 917,748B |
10. TRN141 - MOLOKAI AIRPORT
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | TRN | 17.00*     | 17.00*     |
|           |     | 1,243,181B | 1,248,960B |
11. TRN143 - KALAUPAPA AIRPORT
 

|           |     |         |         |
|-----------|-----|---------|---------|
| OPERATING | TRN | 35,130B | 36,062B |
|-----------|-----|---------|---------|



## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID           | PROGRAM                   | EXPENDING AGENCY | APPROPRIATIONS                      |       |                                     |       |
|----------|--------------------|---------------------------|------------------|-------------------------------------|-------|-------------------------------------|-------|
|          |                    |                           |                  | FISCAL YEAR 1995-96                 | M O F | FISCAL YEAR 1996-97                 | M O F |
| 12.      | TRN151             | - LANAI AIRPORT           |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 11.00*<br>976,009B                  |       | 11.00*<br>1,505,717B                |       |
| 13.      | TRN161             | - LIHUE AIRPORT           |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 108.00*<br>9,318,709B               |       | 108.00*<br>8,576,637B               |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 479,000B                            |       | B                                   |       |
| 14.      | TRN163             | - PORT ALLEN AIRPORT      |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 1,792B                              |       | 211,860B                            |       |
| 15.      | TRN195             | - AIRPORTS ADMINISTRATION |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 178,354A<br>104.00*<br>158,421,058B |       | 178,354A<br>104.00*<br>158,632,216B |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 3,155,000B                          |       | 2,721,000B                          |       |
|          |                    |                           | TRN              | 493,000E                            |       | 590,000E                            |       |
|          |                    |                           | TRN              | 480,000N                            |       | 100,000N                            |       |
| 16.      | TRN301             | - HONOLULU HARBOR         |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 103.00*<br>11,364,671B              |       | 103.00*<br>11,421,208B              |       |
|          | INVESTMENT CAPITAL |                           | TRN              | E                                   |       | 1,928,000E                          |       |
| 17.      | TRN303             | - BARBERS POINT HARBOR    |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 2.00*<br>380,976B                   |       | 2.00*<br>380,210B                   |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 220,000B                            |       | 220,000B                            |       |
|          |                    |                           | TRN              | 250,000N                            |       | 250,000N                            |       |
| 18.      | TRN305             | - KEWALO BASIN            |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 3.00*<br>810,202B                   |       | 3.00*<br>800,722B                   |       |
| 19.      | TRN311             | - HILO HARBOR             |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 10.00*<br>1,308,088B                |       | 10.00*<br>1,235,857B                |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 622,000B                            |       | 711,000B                            |       |
| 20.      | TRN313             | - KAWAIHAE HARBOR         |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 4.00*<br>529,534B                   |       | 4.00*<br>507,331B                   |       |
|          | INVESTMENT CAPITAL |                           | TRN              | B                                   |       | 976,000B                            |       |
| 21.      | TRN331             | - KAHULUI HARBOR          |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 14.00*<br>1,497,011B                |       | 14.00*<br>1,483,967B                |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 483,000B                            |       | 95,000B                             |       |
|          |                    |                           | TRN              | 3,891,000E                          |       | 1,447,000E                          |       |
|          |                    |                           | TRN              | 100,000N                            |       | 100,000N                            |       |
| 22.      | TRN341             | - KAUNAKAKAI HARBOR       |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 1.00*<br>190,908B                   |       | 1.00*<br>211,927B                   |       |
| 23.      | TRN361             | - NAWILIWILI HARBOR       |                  |                                     |       |                                     |       |
|          | OPERATING          |                           | TRN              | 12.00*<br>1,027,659B                |       | 12.00*<br>998,937B                  |       |
|          | INVESTMENT CAPITAL |                           | TRN              | 1,968,000B                          |       | B                                   |       |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID           | PROGRAM                 | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|--------------------|-------------------------|------------------|---------------------|-------|---------------------|-------|
|          |                    |                         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |                    |                         | TRN              |                     | E     | 1,935,000E          |       |
| 24.      | TRN363             | PORT ALLEN HARBOR       |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 1.00*               |       | 1.00*               |       |
|          |                    |                         |                  | 279,090B            |       | 268,831B            |       |
| 25.      | TRN351             | KAUMALAPAU HARBOR       |                  |                     |       |                     |       |
|          | OPERATING          |                         |                  |                     |       |                     |       |
| 26.      | TRN395             | HARBORS ADMINISTRATION  |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 53.00*              |       | 53.00*              |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 29,825,181B         |       | 31,227,002B         |       |
|          |                    |                         | TRN              | 1,069,000B          |       | 693,000B            |       |
|          |                    |                         | TRN              | 1,000,000E          |       | 1,000,000E          |       |
| 27.      | TRN501             | OAHU HIGHWAYS           |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 246.00*             |       | 246.00*             |       |
|          | INVESTMENT CAPITAL |                         | AGS              | 31,501,087B         |       | 34,607,869B         |       |
|          |                    |                         | TRN              | 500,000B            |       | B                   |       |
|          |                    |                         | TRN              | 2,480,000B          |       | 2,520,000B          |       |
|          |                    |                         | TRN              | 8,896,000E          |       | 8,600,000E          |       |
|          |                    |                         | TRN              | 36,195,000N         |       | 38,070,000N         |       |
|          |                    |                         | TRN              | 4,620,000R          |       | 2,520,000R          |       |
| 28.      | TRN511             | HAWAII HIGHWAYS         |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 118.00*             |       | 118.00*             |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 22,407,512B         |       | 23,241,953B         |       |
|          |                    |                         | TRN              | B                   |       | 5,500,000B          |       |
|          |                    |                         | TRN              | 4,000,000E          |       | 7,059,000E          |       |
|          |                    |                         | TRN              | 4,630,000N          |       | 44,306,000N         |       |
| 29.      | TRN531             | MAUI HIGHWAYS           |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 69.00*              |       | 69.00*              |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 12,689,885B         |       | 13,089,901B         |       |
|          |                    |                         | TRN              | 12,620,000B         |       | B                   |       |
|          |                    |                         | TRN              | 712,000E            |       | 152,000E            |       |
|          |                    |                         | TRN              | 41,978,000N         |       | 468,000N            |       |
| 30.      | TRN541             | MOLOKAI HIGHWAYS        |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 12.00*              |       | 12.00*              |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 2,354,467B          |       | 2,279,450B          |       |
|          |                    |                         | TRN              | 26,000E             |       | 120,000E            |       |
|          |                    |                         | TRN              | 34,000N             |       | 480,000N            |       |
| 31.      | TRN551             | LANAI HIGHWAYS          |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 2.00*               |       | 2.00*               |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 661,757B            |       | 635,112B            |       |
|          |                    |                         | TRN              | 9,000E              |       | 90,000E             |       |
|          |                    |                         | TRN              | 27,000N             |       | 270,000N            |       |
| 32.      | TRN561             | KAUAI HIGHWAYS          |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 45.00*              |       | 45.00*              |       |
|          | INVESTMENT CAPITAL |                         | TRN              | 5,130,055B          |       | 5,828,274B          |       |
|          |                    |                         | TRN              | 3,500,000B          |       | B                   |       |
|          |                    |                         | TRN              | 1,106,000E          |       | 243,000E            |       |
|          |                    |                         | TRN              | 2,791,000N          |       | 857,000N            |       |
| 33.      | TRN595             | HIGHWAYS ADMINISTRATION |                  |                     |       |                     |       |
|          | OPERATING          |                         | TRN              | 64.00*              |       | 64.00*              |       |
|          |                    |                         |                  | 66,849,301B         |       | 62,245,506B         |       |

## PROGRAM APPROPRIATIONS

| ITEM NO.                           | PROG. ID | PROGRAM                                | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|------------------------------------|----------|--|------------------|---------------------|-------|---------------------|-------|
|                                    |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|                                    |          | INVESTMENT CAPITAL                     | TRN              | 6,000,000B          |       | 6,000,000B          |       |
|                                    |          |  | TRN              | 560,000C            |       |                     | C     |
|                                    |          |  | TRN              | 19,005,000E         |       | 25,920,000E         |       |
|                                    |          |  | TRN              | 21,495,000N         |       | 48,715,000N         |       |
|                                    |          |  | TRN              | 500,000S            |       |                     | S     |
| 34.                                | TRN597   | - HIGHWAY SAFETY                       |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | TRN              | 37.00*              |       | 37.00*              |       |
|                                    |          |  | TRN              | 4,889,996B          |       | 4,994,126B          |       |
|                                    |          |  |                  | 4.00*               |       | 4.00*               |       |
|                                    |          |  | TRN              | 395,159N            |       | 296,696N            |       |
| 35.                                | TRN995   | - GENERAL ADMINISTRATION               |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | TRN              | 88.00*              |       | 88.00*              |       |
|                                    |          |  | TRN              | 9,170,602B          |       | 8,999,862B          |       |
|                                    |          |  |                  | 9,256N              |       |                     | N     |
| <b>D. ENVIRONMENTAL PROTECTION</b> |          |  |                  |                     |       |                     |       |
| 1.                                 | HTH840   | - ENVIRONMENTAL MANAGEMENT             |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | HTH              | 73.00*              |       | 73.00*              |       |
|                                    |          |  |                  | 3,123,734A          |       | 3,123,734A          |       |
|                                    |          |  | HTH              | 47.00*              |       | 47.00*              |       |
|                                    |          |  | HTH              | 5,729,501B          |       | 6,044,501B          |       |
|                                    |          |  |                  | 39.00*              |       | 39.00*              |       |
|                                    |          |  | HTH              | 3,933,579N          |       | 3,941,388N          |       |
|                                    |          |  |                  | 5.00*               |       | 5.00*               |       |
|                                    |          | INVESTMENT CAPITAL                     | HTH              | 30,574,345W         |       | 30,694,241W         |       |
|                                    |          |  | HTH              | 2,447,000C          |       |                     | C     |
|                                    |          |  | HTH              | 12,236,000N         |       |                     | N     |
| 2.                                 | AGR846   | - PESTICIDES                           |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | AGR              | 22.00*              |       | 22.00*              |       |
|                                    |          |  | AGR              | 709,847A            |       | 709,847A            |       |
|                                    |          |  |                  | 500,000N            |       | 500,000N            |       |
| 3.                                 | LNR401   | - AQUATIC RESOURCES                    |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | LNR              | 24.00*              |       | 24.00*              |       |
|                                    |          |  | LNR              | 1,187,928A          |       | 1,187,928A          |       |
|                                    |          |  |                  | 402,459N            |       | 402,459N            |       |
| 4.                                 | LNR402   | - FORESTS AND WILDLIFE RESOURCES       |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | LNR              | 56.50*              |       | 56.50*              |       |
|                                    |          |  |                  | 2,666,005A          |       | 2,555,505A          |       |
|                                    |          |  |                  | 4.50*               |       | 4.50*               |       |
|                                    |          | INVESTMENT CAPITAL                     | LNR              | 857,273N            |       | 857,273N            |       |
|                                    |          |  | LNR              | 2,996,000C          |       | 48,000C             |       |
| 5.                                 | LNR403   | - MINERAL RESOURCES                    |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | LNR              | 2.00*               |       | 2.00*               |       |
|                                    |          |  |                  | 134,725A            |       | 134,725A            |       |
| 6.                                 | LNR404   | - WATER RESOURCES                      |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | LNR              | 16.00*              |       | 16.00*              |       |
|                                    |          | INVESTMENT CAPITAL                     | LNR              | 1,562,916A          |       | 1,562,916A          |       |
|                                    |          |  |                  | 232,000C            |       |                     | C     |
| 7.                                 | LNR405   | - CONSERVATION & RESOURCES ENFORCEMENT |                  |                     |       |                     |       |
|                                    |          | OPERATING                              | LNR              | 76.50*              |       | 76.50*              |       |
|                                    |          |  |                  | 3,800,505A          |       | 3,809,334A          |       |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID           | PROGRAM                                      | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|--------------------|--|------------------|---------------------|-------|---------------------|-------|
|          |                    |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |                    |  | LNR              | 2.50*               |       | 2.50*               |       |
|          |                    |  |                  | 436,677N            |       | 424,652N            |       |
|          |                    |  | LNR              | 1.00*               |       | 1.00*               |       |
|          |                    |  |                  | 8,136W              |       | 8,136W              |       |
| 8.       | LNR406             | COASTAL AREAS OPERATING                      | LNR              | 5,000A              |       | 5,000A              |       |
| 9.       | LNR407             | NATURAL AREA RESERVES & MANAGEMENT           |                  |                     |       |                     |       |
|          | OPERATING          |  | LNR              | 14.00*              |       | 14.00*              |       |
|          |                    |  | LNR              | 1,377,119A          |       | 1,405,619A          |       |
|          |                    |  | LNR              | 1,500,000B          |       | 1,500,000B          |       |
| 10.      | HTH850             | POLICY DVLPMENT,COORD & ANLYS FOR NAT P ENVR |                  |                     |       |                     |       |
|          | OPERATING          |  | HTH              | 7.00*               |       | 7.00*               |       |
|          |                    |  |                  | 286,143A            |       | 286,143A            |       |
| 11.      | LNR906             | LNR-NATURAL PHYSICAL ENVIRONMENT             |                  |                     |       |                     |       |
|          | OPERATING          |  | LNR              | 44.00*              |       | 44.00*              |       |
|          | INVESTMENT CAPITAL |  | LNR              | 2,060,298A          |       | 2,060,298A          |       |
|          |                    |  | LNR              | 1,500,000C          |       | 1,500,000C          |       |
| 12.      | HTH849             | ENVIRONMENTAL HEALTH ADMINISTRATION          |                  |                     |       |                     |       |
|          | OPERATING          |  | HTH              | 16.50*              |       | 16.50*              |       |
|          |                    |  | HTH              | 1,015,305A          |       | 1,015,305A          |       |
|          |                    |  | HTH              | 22.50*              |       | 22.50*              |       |
|          |                    |  | HTH              | 2,509,205N          |       | 2,509,205N          |       |
|          |                    |  | HTH              | 8.00*               |       | 8.00*               |       |
|          |                    |  | HTH              | 1,188,902W          |       | 1,193,182W          |       |

E. HEALTH

1. HTH101 - TUBERCULOSIS/HANSEN'S DISEASE CONTROL
 

|                    |     |            |            |
|--------------------|-----|------------|------------|
| OPERATING          | HTH | 43.00*     | 43.00*     |
|                    |     | 2,305,973A | 2,298,973A |
|                    |     | 3.00*      | 3.00*      |
| INVESTMENT CAPITAL | HTH | 1,745,352N | 1,795,669N |
|                    | AGS | 792,000C   | C          |
2. HTH111 - HANSEN'S DISEASE INSTITUTIONAL SERVICES
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | HTH | 66.00*     | 66.00*     |
|           |     | 4,283,970A | 4,290,970A |
3. HTH121 - STD/AIDS PREVENTION SERVICES
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | HTH | 14.00*     | 14.00*     |
|           |     | 5,857,172A | 5,857,172A |
|           |     | 4.50*      | 4.50*      |
|           | HTH | 2,206,116N | 2,206,116N |
4. HTH131 - EPIDEMIOLOGY SERVICES
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | HTH | 15.00*     | 15.00*     |
|           |     | 1,691,639A | 1,691,639A |
|           |     | 1.00*      | 1.00*      |
|           | HTH | 3,689,982N | 3,689,982N |
5. HTH141 - DENTAL DISEASES
 

|           |     |            |            |
|-----------|-----|------------|------------|
| OPERATING | HTH | 36.10*     | 36.10*     |
|           |     | 1,345,786A | 1,345,786A |

PROGRAM APPROPRIATIONS

| ITEM<br>NO. | PROG.<br>ID        | PROGRAM                                | EXPENDING<br>AGENCY | APPROPRIATIONS            |             |                           |             |
|-------------|--------------------|--|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                    |  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
| 6.          | HTH151             | - PREVENTIVE HEALTH SERVICES           |                     |                           |             |                           |             |
|             | OPERATING          |  | HTH                 | 4.00*                     |             | 4.00*                     |             |
|             |                    |  | HTH                 | 1,201,434A                |             | 1,201,434A                |             |
|             |                    |  |                     | 838,103N                  |             | 844,603N                  |             |
| 7.          | HTH160             | - NUTRITION                            |                     |                           |             |                           |             |
|             | OPERATING          |  | HTH                 | 8.00*                     |             | 8.00*                     |             |
|             |                    |  | HTH                 | 416,637A                  |             | 416,637A                  |             |
|             |                    |  | HTH                 | 118.50*                   |             | 118.50*                   |             |
|             |                    |  |                     | 29,272,857N               |             | 29,272,857N               |             |
| 8.          | HTH180             | - HEALTH EDUCATION & INJURY PREVENTION |                     |                           |             |                           |             |
|             | OPERATING          |  | HTH                 | 27.00*                    |             | 27.00*                    |             |
|             |                    |  | HTH                 | 1,280,733A                |             | 1,280,733A                |             |
|             |                    |  | HTH                 | 3.00*                     |             | 3.00*                     |             |
|             |                    |  |                     | 1,036,166N                |             | 1,079,214N                |             |
| 9.          | HTH195             | - HPDP ADMINISTRATION                  |                     |                           |             |                           |             |
|             | OPERATING          |  | HTH                 | 13.50*                    |             | 13.50*                    |             |
|             |                    |  | HTH                 | 533,674A                  |             | 533,674A                  |             |
|             |                    |  |                     | 282,221N                  |             | 289,814N                  |             |
| 10.         | HTH210             | - COMMUNITY HOSPITALS                  |                     |                           |             |                           |             |
|             | OPERATING          |  | HTH                 | 3,002.25*                 |             | 3,002.25*                 |             |
|             |                    |  |                     | 272,227,489B              |             | 272,454,769B              |             |
| 11.         | HTH211             | - HILO HOSPITAL                        |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
| 12.         | HTH212             | - HONOKAA HOSPITAL                     |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
| 13.         | HTH213             | - KA'U HOSPITAL                        |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
| 14.         | HTH214             | - KOHALA HOSPITAL                      |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
|             | INVESTMENT CAPITAL |  | AGS                 | 271,000C                  |             |                           | C           |
| 15.         | HTH215             | - KONA HOSPITAL                        |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
|             | INVESTMENT CAPITAL |  | AGS                 | 4,000,000B                |             |                           | B           |
|             |                    |  | AGS                 | 5,368,000C                |             |                           | C           |
| 16.         | HTH221             | - MAUI MEMORIAL HOSPITAL               |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
|             | INVESTMENT CAPITAL |  | AGS                 | 4,442,000C                |             |                           | C           |
| 17.         | HTH222             | - HANA MEDICAL CENTER                  |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
|             | INVESTMENT CAPITAL |  | AGS                 | 450,000C                  |             |                           | C           |
| 18.         | HTH223             | - KULA HOSPITAL                        |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
| 19.         | HTH224             | - LANAI COMMUNITY HOSPITAL             |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |
| 20.         | HTH231             | - KAUAI VETERANS MEMORIAL HOSPITAL     |                     |                           |             |                           |             |
|             | OPERATING          |  |                     |                           |             |                           |             |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM   | EXPENDING AGENCY  | APPROPRIATIONS  |       |   |       |
|----------|----------|---|-------------------|---|-------|---|-------|
|          |          |   |                   | FISCAL YEAR 1995-96   | M O F | FISCAL YEAR 1996-97   | M O F |
|          |          | INVESTMENT CAPITAL                                    | AGS               | 683,000C  |       |   | C     |
| 21.      | HTH232   | - SAMUEL MAHELONA MEMORIAL HOSPITAL OPERATING         |                   |   |       |   |       |
| 22.      | HTH241   | - MALUHIA HOSPITAL OPERATING                          |                   |   |       |   |       |
| 23.      | HTH242   | - LEAHI HOSPITAL OPERATING                            |                   |   |       |   |       |
| 24.      | SUB601   | - PRIVATE HOSPITALS & MEDICAL SERVICES OPERATING      | SUB               | 2,261,820A  |       | 2,261,820A  |       |
|          |          | INVESTMENT CAPITAL                                    | HTH               | 3,500,000C  |       |   | C     |
| 25.      | HTH295   | - COMMUNITY HOSPITALS ADMINISTRATION OPERATING        | HTH               | 415,110A<br>40.00*  |       | 415,110A<br>40.00*  |       |
|          |          |   | HTH               | 3,270,613B  |       | 3,270,613B  |       |
| 26.      | HTH420   | - ADULT MENTAL HEALTH OPERATING                       | HTH<br>HTH<br>HTH | 263.60*<br>16,719,522A<br>564,146B<br>1,026,514N            |       | 263.60*<br>16,719,522A<br>564,146B<br>1,026,514N            |       |
| 27.      | HTH430   | - HAWAII STATE HOSPITAL OPERATING                     | HTH               | 611.00*<br>32,324,182A                                      |       | 611.00*<br>32,324,182A                                      |       |
| 28.      | HTH440   | - ALCOHOL & DRUG ABUSE OPERATING                      | HTH<br>HTH        | 8.00*<br>6,382,464A<br>2.00*<br>5,621,236N                  |       | 8.00*<br>6,382,464A<br>2.00*<br>5,621,236N                  |       |
| 29.      | HTH460   | - CHILD & ADOLESCENT MENTAL HEALTH OPERATING          | HTH<br>HTH<br>HTH | 164.00*<br>29,930,903A<br>1,902,292B<br>1,507,861N          |       | 164.00*<br>29,930,903A<br>1,902,292B<br>4,598,644N          |       |
| 30.      | HTH495   | - BEHAVIORAL HEALTH SERVICES ADMINISTRATION OPERATING | HTH<br>HTH        | 75.50*<br>5,381,116A<br>4.00*<br>934,533N                   |       | 75.50*<br>5,437,805A<br>4.00*<br>644,783N                   |       |
| 31.      | HTH501   | - DEVELOPMENTAL DISABILITIES OPERATING                | HTH               | 457.50*<br>28,711,718A                                      |       | 457.50*<br>28,711,718A                                      |       |
|          |          | INVESTMENT CAPITAL                                    | AGS               | 520,000C  |       | 5,572,000C  |       |
| 32.      | HTH530   | - FAMILY HEALTH SERVICES OPERATING                    | HTH<br>HTH<br>HTH | 98.25*<br>18,084,661A<br>52.00*<br>5,699,777N<br>1,100,000U |       | 98.25*<br>18,084,661A<br>52.00*<br>6,159,777N<br>1,100,000U |       |

## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID  | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|---|---------|------------------|---------------------|-------|---------------------|-------|
|          |   |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| 33.      | HTH540 - SCHOOL HEALTH SERVICES                       |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 387.00*             |       | 387.00*             |       |
|          |   |         |                  | 10,610,647A         |       | 10,610,647A         |       |
|          |   |         | HTH              | 2.00*               |       | 2.00*               |       |
|          |   |         |                  | 451,795N            |       | 451,795N            |       |
| 34.      | HTH570 - COMMUNITY HEALTH NURSING                     |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 166.50*             |       | 166.50*             |       |
|          |   |         |                  | 7,615,258A          |       | 7,615,258A          |       |
|          |   |         | HTH              | 1.00*               |       | 1.00*               |       |
|          |   |         | HTH              | 29,675N             |       | 29,675N             |       |
|          |   |         | HTH              | 1,334,411U          |       |                     | U     |
| 35.      | HTH595 - PERSONAL HEALTH SERVICES ADMINISTRATION      |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 33.00*              |       | 33.00*              |       |
|          |   |         | HTH              | 2,922,557A          |       | 2,922,557A          |       |
|          |   |         |                  | 292,579B            |       | 292,579B            |       |
|          |   |         |                  | 2.00*               |       | 2.00*               |       |
|          |   |         | HTH              | 283,880N            |       | 283,880N            |       |
|          |   |         | HTH              | 47,000U             |       | 47,000U             |       |
| 36.      | HTH610 - ENVIRONMENTAL HEALTH SERVICES                |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 181.00*             |       | 181.00*             |       |
|          |   |         | HTH              | 6,048,367A          |       | 6,048,367A          |       |
|          |   |         | HTH              | 300,000B            |       | 300,000B            |       |
|          |   |         | HTH              | 82,019N             |       | 82,019N             |       |
|          |   |         |                  | 2.00*               |       | 2.00*               |       |
|          |   |         | HTH              | 61,942U             |       | 61,942U             |       |
| 37.      | HTH710 - STATE LABORATORY SERVICES                    |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 88.00*              |       | 88.00*              |       |
|          |   |         |                  | 4,600,757A          |       | 4,623,395A          |       |
| 38.      | HTH720 - MED FACILITIES - STDS, INSPECTION, LICENSING |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 17.80*              |       | 17.80*              |       |
|          |   |         |                  | 960,274A            |       | 960,274A            |       |
|          |   |         |                  | 20.70*              |       | 20.70*              |       |
|          |   |         | HTH              | 1,541,841N          |       | 1,560,956N          |       |
| 39.      | HTH730 - EMERGENCY MEDICAL SERVICES                   |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 13.00*              |       | 13.00*              |       |
|          |   |         | HTH              | 33,203,483A         |       | 32,983,483A         |       |
|          |   |         |                  | 295,786N            |       | 295,786N            |       |
| 40.      | HTH760 - HEALTH STATUS MONITORING                     |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 30.00*              |       | 30.00*              |       |
|          |   |         | HTH              | 1,535,997A          |       | 1,535,997A          |       |
|          |   |         |                  | 124,139N            |       | 124,139N            |       |
| 41.      | HTH795 - HEALTH RESOURCES ADMINISTRATION              |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 14.00*              |       | 14.00*              |       |
|          |   |         | HTH              | 1,080,752A          |       | 1,080,752A          |       |
|          |   |         |                  | 55,000N             |       | 55,000N             |       |
| 42.      | HTH906 - COMPREHENSIVE HEALTH PLANNING                |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 12.00*              |       | 12.00*              |       |
|          |   |         |                  | 544,174A            |       | 544,174A            |       |
| 43.      | HTH907 - GENERAL ADMINISTRATION                       |         |                  |                     |       |                     |       |
|          |   |         |                  | 128.00*             |       | 128.00*             |       |

PROGRAM APPROPRIATIONS

| ITEM NO.  | PROG. ID           | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|---|--------------------|---------|------------------|---------------------|-------|---------------------|-------|
|   |                    |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|   | OPERATING          |         | HTH              | 5,628,657A          |       | 5,636,386A          |       |
|   |                    |         |                  | 6.50*               |       | 6.50*               |       |
|   | INVESTMENT CAPITAL |         | HTH              | 486,228N            |       | 486,228N            |       |
|   |                    |         | AGS              | 90,000C             |       |                     | C     |
| <b>F. SOCIAL SERVICES</b>                                     |                    |         |                  |                     |       |                     |       |
| 1. HMS301 - CHILD WELFARE SERVICES                            |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 172.33*             |       | 172.33*             |       |
|   |                    |         | HMS              | 18,004,541A         |       | 18,004,541A         |       |
|   |                    |         | HMS              | 100,000B            |       | 100,000B            |       |
|   |                    |         | HMS              | 173.67*             |       | 173.67*             |       |
|   |                    |         | HMS              | 7,987,462N          |       | 7,987,462N          |       |
|   |                    |         | HMS              | 369,801U            |       | 369,801U            |       |
| 2. HMS302 - CHILD DAY CARE SERVICES                           |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 28.00*              |       | 28.00*              |       |
|   |                    |         | HMS              | 2,971,033A          |       | 6,935,032A          |       |
|   |                    |         | HMS              | 1.00*               |       | 1.00*               |       |
|   |                    |         | HMS              | 1,792,288N          |       | 5,207,288N          |       |
|   |                    |         | HMS              | 2,434,830U          |       | 2,434,830U          |       |
| 3. HMS303 - CHILD PLACEMENT BOARD AND RELATED CLIENT PAYMENTS |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 11,986,770A         |       | 11,986,770A         |       |
|   |                    |         | HMS              | 5,286,861N          |       | 6,934,405N          |       |
| 4. HMS601 - COMMUNITY LONG TERM CARE SERVICES                 |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 70.50*              |       | 70.50*              |       |
|   |                    |         | HMS              | 6,644,646A          |       | 6,644,646A          |       |
|   |                    |         | HMS              | 3,795,420N          |       | 3,795,420N          |       |
|   |                    |         | HMS              | 207,454U            |       | 207,454U            |       |
| 5. HMS501 - YOUTH SERVICES ADMINISTRATION                     |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 19.00*              |       | 19.00*              |       |
|   |                    |         | HMS              | 1,640,766A          |       | 1,325,766A          |       |
|   |                    |         | HMS              | 1,090,000N          |       | 1,090,000N          |       |
|   | INVESTMENT CAPITAL |         | HMS              | 40,000C             |       |                     | C     |
| 6. HMS502 - YOUTH SERVICES PROGRAM                            |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 3.00*               |       | 3.00*               |       |
|   |                    |         | HMS              | 3,952,813A          |       | 3,352,813A          |       |
|   |                    |         | HMS              | 223,600N            |       | 225,342N            |       |
| 7. HMS503 - YOUTH RESIDENTIAL PROGRAMS                        |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 77.50*              |       | 77.50*              |       |
|   |                    |         | HMS              | 4,636,409A          |       | 3,836,409A          |       |
|   |                    |         | HMS              | 1,490,590N          |       | 1,502,204N          |       |
| 8. DEF112 - SERVICES TO VETERANS                              |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | DEF              | 22.00*              |       | 22.00*              |       |
|   |                    |         | DEF              | 1,274,968A          |       | 1,274,968A          |       |
|   | INVESTMENT CAPITAL |         | DEF              | 4,290,000C          |       | 1,300,000C          |       |
|   |                    |         | DEF              | 1,930,000N          |       | 1,300,000N          |       |
|   |                    |         | DEF              | 140,000S            |       |                     | S     |
| 9. HMS304 - FOSTER CARE LICENSING                             |                    |         |                  |                     |       |                     |       |
|   | OPERATING          |         | HMS              | 27.24*              |       | 27.24*              |       |
|   |                    |         | HMS              | 1,221,853A          |       | 1,221,853A          |       |
|   |                    |         | HMS              | 6.76*               |       | 6.76*               |       |



## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID  | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|---|---------|------------------|---------------------|-------|---------------------|-------|
|          |   |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |   |         | HMS              | 277,733N            |       | 277,733N            |       |
| 10.      | HMS201 - PAYMNTS TO ASSIST FAMILIES WITH DEPNDNT CHLD OPERATING |         | HMS              | 96,504,772A         |       | 104,392,509A        |       |
|          |   |         | HMS              | 88,603,140N         |       | 95,968,228N         |       |
| 11.      | HMS202 - PAYMNTS TO ASSIST THE AGED, BLIND & DISABLED OPERATING |         | HMS              | 18,922,407A         |       | 19,960,896A         |       |
| 12.      | HMS204 - OTHER GENERAL ASSISTANCE PAYMENTS OPERATING            |         | HMS              | 42,889,464A         |       | 42,889,464A         |       |
| 13.      | HMS206 - OTHER FEDERAL ASSISTANCE PAYMENTS OPERATING            |         | HMS              | 1,491,331N          |       | 1,491,331N          |       |
| 14.      | HMS220 - RENTAL HOUSING SERVICES OPERATING                      |         | HMS              | 1,044,337A          |       | 1,044,337A          |       |
|          |   |         |                  | 23.00*              |       | 23.00*              |       |
|          |   |         | HMS              | 2,140,993B          |       | 2,140,993B          |       |
|          |   |         |                  | 202.00*             |       | 202.00*             |       |
|          |   |         | HMS              | 19,935,885N         |       | 19,935,885N         |       |
| 15.      | HMS807 - TEACHER HOUSING OPERATING                              |         | HMS              | 150,000A            |       | 150,000A            |       |
|          |   |         | HMS              | 241,817B            |       | 241,817B            |       |
| 16.      | HMS229 - HOUSING ASSISTANCE ADMINISTRATION                      |         |                  | 7.00*               |       | 7.00*               |       |
|          | OPERATING   |         | HMS              | 353,607B            |       | 353,607B            |       |
|          |   |         |                  | 37.00*              |       | 37.00*              |       |
|          |   |         | HMS              | 9,548,442N          |       | 9,548,442N          |       |
|          | INVESTMENT CAPITAL  |         | HMS              | 12,795,000N         |       | N                   |       |
| 17.      | BUF225 - PRIVATE HOUSING DEVELOPMENT & OWNERSHIP                |         |                  | 18.00*              |       | 18.00*              |       |
|          | OPERATING   |         | BUF              | 3,516,862B          |       | 3,516,862B          |       |
|          |   |         | BUF              | 153,464N            |       | 94,792N             |       |
|          | INVESTMENT CAPITAL  |         | BUF              | 1,900,000C          |       | C                   |       |
| 18.      | BUF223 - BROADENED HOMESITE OWNERSHIP                           |         |                  | 1.00*               |       | 1.00*               |       |
|          | OPERATING   |         | BUF              | 396,647B            |       | 396,647B            |       |
| 19.      | BUF227 - HOUSING FINANCE  |         |                  | 7.00*               |       | 7.00*               |       |
|          | OPERATING   |         | BUF              | 1,140,642B          |       | 1,140,642B          |       |
|          |   |         | BUF              | 3,499,221N          |       | 3,000,000N          |       |
| 20.      | BUF229 - HOUSING FINANCE & DEVELOPMENT ADMINISTRATION           |         |                  | 20.00*              |       | 20.00*              |       |
|          | OPERATING   |         | BUF              | 2,751,770B          |       | 2,751,770B          |       |
| 21.      | HMS222 - RENTAL ASSISTANCE SERVICES                             |         |                  | 9.00*               |       | 9.00*               |       |
|          | OPERATING   |         | HMS              | 2,842,563A          |       | 2,842,563A          |       |
|          |   |         |                  | 8.00*               |       | 8.00*               |       |
|          |   |         | HMS              | 15,726,238N         |       | 15,726,238N         |       |
| 22.      | HMS224 - HOMELESS SERVICES                                      |         |                  | 4.00*               |       | 4.00*               |       |

## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM  | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|----------|--|------------------|---------------------|-------|---------------------|-------|
|          |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |          | OPERATING                                      | HMS              | 4,976,656A          |       | 4,976,656A          |       |
| 23.      | BUF231   | - RENTAL HOUSING TRUST FUND PROGRAM            |                  |                     |       |                     |       |
|          |          | OPERATING                                      | BUF              | 14,739,803T         |       | 3,582,774T          |       |
| 24.      | HMS230   | - HEALTH CARE PAYMENTS                         |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 275,980,759A        |       | 277,330,759A        |       |
|          |          |  | HMS              | 270,971,757N        |       | 272,321,757N        |       |
|          |          |  | HMS              | 15,606,905U         |       | 15,606,905U         |       |
| 25.      | HMS236   | - ELIGIBILITY DETERMINATION                    |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 311.80*             |       | 311.80*             |       |
|          |          |  | HMS              | 10,309,584A         |       | 10,309,584A         |       |
|          |          |  | HMS              | 235.70*             |       | 235.70*             |       |
|          |          |  | HMS              | 10,789,431N         |       | 10,789,431N         |       |
| 26.      | HMS238   | - DISABILITY DETERMINATION                     |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 36.00*              |       | 36.00*              |       |
|          |          |  | HMS              | 3,417,168N          |       | 3,417,168N          |       |
| 27.      | ATG500   | - CHILD SUPPORT ENFORCEMENT SERVICES           |                  |                     |       |                     |       |
|          |          | OPERATING                                      | ATG              | 53.72*              |       | 53.72*              |       |
|          |          |  | ATG              | 1,852,947A          |       | 1,852,947A          |       |
|          |          |  | ATG              | 104.28*             |       | 104.28*             |       |
|          |          |  | ATG              | 12,713,121N         |       | 12,789,303N         |       |
|          |          |  | ATG              | 2,300,000T          |       | 2,300,000T          |       |
| 28.      | HMS701   | - JOBS PROGRAM                                 |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 52.00*              |       |                     | *     |
|          |          |  | HMS              | 7,546,372A          |       |                     | A     |
|          |          |  | HMS              | 52.00*              |       |                     | *     |
|          |          |  | HMS              | 7,315,012N          |       |                     | N     |
| 29.      | HMS702   | - FOOD STAMP EMPLOYMENT & TRAINING             |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 1.00*               |       | 1.00*               |       |
|          |          |  | HMS              | 596,246A            |       | 596,246A            |       |
|          |          |  | HMS              | 811,466N            |       | 811,466N            |       |
| 30.      | HMS703   | - GENERAL ASSISTANCE WORK PROGRAM              |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HMS              | 1.00*               |       | 1.00*               |       |
|          |          |  | HMS              | 31,255A             |       | 31,255A             |       |
| 31.      | HHL602   | - PLANNG, DEV, MGT & GEN SPPT FOR HAWN HMSTDS  |                  |                     |       |                     |       |
|          |          | OPERATING                                      | HHL              | 62.00*              |       | 62.00*              |       |
|          |          |  | HHL              | 2,565,951A          |       | 2,565,951A          |       |
|          |          |  | HHL              | 80.00*              |       | 80.00*              |       |
|          |          | INVESTMENT CAPITAL                             | HHL              | 3,675,670B          |       | 3,729,820B          |       |
|          |          |  | HHL              | 260,000C            |       | C                   |       |
| 32.      | GOV861   | - PLAN, PRGM DEV & COORD OF SVCS FOR CHD & YTH |                  |                     |       |                     |       |
|          |          | OPERATING                                      | GOV              | 11.00*              |       |                     | *     |
|          |          |  | GOV              | 3,963,999A          |       |                     | A     |
|          |          |  | GOV              | 3,300,000N          |       |                     | N     |
| 33.      | GOV602   | - PLAN. PRGM DEV & COORD OF SVCS FOR ELDERLY   |                  |                     |       |                     |       |
|          |          | OPERATING                                      | GOV              | 3.90*               |       | 3.90*               |       |
|          |          |  | GOV              | 6,528,320A          |       | 6,529,293A          |       |
|          |          |  | GOV              | 6.85*               |       | 6.85*               |       |
|          |          |  | GOV              | 5,327,082N          |       | 5,327,082N          |       |

## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID  | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|---|---------|------------------|---------------------|-------|---------------------|-------|
|          |   |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| 34.      | HTH520 - PLAN, PROG DEV & COORD OF SVS FOR HANDCPPD |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HTH              | 6.00*               |       | 6.00*               |       |
|          |   |         |                  | 812,680A            |       | 812,680A            |       |
| 35.      | HMS902 - GENERAL SUPPORT FOR HEALTH CARE PAYMENTS   |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HMS              | 33.17*              |       | 33.17*              |       |
|          |   |         |                  | 5,628,726A          |       | 5,638,726A          |       |
|          |   |         | HMS              | 21.83*              |       | 21.83*              |       |
|          |   |         |                  | 6,685,707N          |       | 6,695,707N          |       |
| 36.      | HMS903 - GENERAL SUPPORT FOR PUBLIC WELFARE         |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HMS              | 59.30*              |       | 59.30*              |       |
|          |   |         |                  | 4,428,473A          |       | 4,428,473A          |       |
|          |   |         | HMS              | 51.70*              |       | 51.70*              |       |
|          |   |         |                  | 4,406,788N          |       | 4,406,788N          |       |
| 37.      | HMS904 - GENERAL ADMINISTRATION (DSSH)              |         |                  |                     |       |                     |       |
|          | OPERATING   |         | HMS              | 180.11*             |       | 180.11*             |       |
|          |   |         |                  | 6,567,377A          |       | 6,465,507A          |       |
|          |   |         | HMS              | 15.89*              |       | 15.89*              |       |
|          |   |         |                  | 1,072,159N          |       | 1,351,548N          |       |

## G. FORMAL EDUCATION

## 1. EDN100 - SCHOOL BASED BUDGETING

|                    |     |              |              |
|--------------------|-----|--------------|--------------|
| OPERATING          | EDN | 13,493.50*   | 13,539.50*   |
|                    |     | 562,233,136A | 564,919,377A |
|                    | EDN | 4,236,510B   | 4,505,770B   |
|                    |     | 75,837,893N  | 72,166,889N  |
|                    | EDN | 2,960,072T   | 2,960,072T   |
|                    |     | 986,658U     | 986,658U     |
| INVESTMENT CAPITAL | AGS | 92,755,000B  | 89,850,000B  |
|                    |     | 30,916,000C  | 13,400,000C  |
|                    | EDN | 150,000B     | 150,000B     |

## 2. EDN200 - INSTRUCTIONAL SUPPORT

|           |     |             |             |
|-----------|-----|-------------|-------------|
| OPERATING | EDN | 388.50*     | 388.50*     |
|           |     | 25,301,130A | 25,385,282A |
|           | EDN | 2,467,035N  | 2,467,035N  |

## 3. EDN300 - STATE AND DISTRICT ADMINISTRATION

|           |     |             |             |
|-----------|-----|-------------|-------------|
| OPERATING | EDN | 563.50*     | 563.50*     |
|           |     | 38,684,131A | 38,696,723A |
|           | EDN | 1,259,544N  | 1,259,544N  |

## 4. EDN400 - SCHOOL SUPPORT

|           |     |             |             |
|-----------|-----|-------------|-------------|
| OPERATING | EDN | 1,416.60*   | 1,423.60*   |
|           |     | 70,257,243A | 70,093,151A |
|           | EDN | 720.50*     | 720.50*     |
|           |     | 16,089,953B | 16,322,300B |
|           | EDN | 3.00*       | 3.00*       |
|           |     | 22,530,456N | 23,201,285N |

## 5. EDN500 - SCHOOL COMMUNITY SERVICE

|           |     |             |             |
|-----------|-----|-------------|-------------|
| OPERATING | EDN | 39.50*      | 39.50*      |
|           |     | 23,140,751A | 23,092,078A |
|           | EDN | 653,642B    | 653,642B    |
|           | EDN | 976,109N    | 976,109N    |

PROGRAM APPROPRIATIONS

|          |  |         |                  | APPROPRIATIONS      |       |                     |       |
|----------|--|---------|------------------|---------------------|-------|---------------------|-------|
| ITEM NO. | PROG. ID   | PROGRAM | EXPENDING AGENCY | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| 6.       | AGS807 - PHYSICAL PLANT OPERATIONS & MAINTENANCE-AGS |         |                  |                     |       |                     |       |
|          | OPERATING  |         | AGS              | 255.00*             |       | 255.00*             |       |
|          |  |         |                  | 43,663,752A         |       | 43,647,752A         |       |
| 7.       | AGS808 - STUDENT TRANSPORTATION                      |         |                  |                     |       |                     |       |
|          | OPERATING  |         | AGS              | 10.00*              |       | 10.00*              |       |
|          |  |         |                  | 19,827,378A         |       | 19,827,378A         |       |
| 8.       | EDN407 - PUBLIC LIBRARIES                            |         |                  |                     |       |                     |       |
|          | OPERATING  |         | EDN              | 582.05*             |       | 582.05*             |       |
|          |  |         | EDN              | 20,759,339A         |       | 20,759,339A         |       |
|          |  |         | EDN              | 1,625,000B          |       | 1,625,000B          |       |
|          | INVESTMENT CAPITAL                                   |         | EDN              | 660,763N            |       | 660,763N            |       |
|          |  |         | AGS              | 1,653,000C          |       | C                   |       |
| 9.       | UOH100 - UNIVERSITY OF HAWAII, MANOA                 |         |                  |                     |       |                     |       |
|          | OPERATING  |         | UOH              | 3,609.34*           |       | 3,605.34*           |       |
|          |  |         |                  | 195,218,685A        |       | 196,906,745A        |       |
|          |  |         |                  | 61.25*              |       | 61.25*              |       |
|          |  |         | UOH              | 55,078,014B         |       | 54,093,779B         |       |
|          |  |         |                  | 78.06*              |       | 78.06*              |       |
|          |  |         | UOH              | 5,411,667N          |       | 5,411,667N          |       |
|          |  |         |                  | 133.75*             |       | 137.75*             |       |
|          | INVESTMENT CAPITAL                                   |         | UOH              | 44,622,809W         |       | 44,675,253W         |       |
|          |  |         | AGS              | 8,169,000C          |       | C                   |       |
|          |  |         | AGS              | 3,375,000R          |       | R                   |       |
|          |  |         | AGS              | 3,376,000W          |       | W                   |       |
|          |  |         | UOH              | 390,000B            |       | B                   |       |
|          |  |         | UOH              | 600,000C            |       | C                   |       |
|          |  |         | UOH              | 15,926,000R         |       | R                   |       |
| 10.      | UOH210 - UNIVERSITY OF HAWAII, HILO                  |         |                  |                     |       |                     |       |
|          | OPERATING  |         | UOH              | 324.00*             |       | 324.00*             |       |
|          |  |         |                  | 19,507,848A         |       | 19,352,783A         |       |
|          |  |         |                  | 15.00*              |       | 15.00*              |       |
|          |  |         | UOH              | 4,717,228B          |       | 5,340,557B          |       |
|          |  |         | UOH              | 394,543N            |       | 394,543N            |       |
|          |  |         |                  | 6.50*               |       | 6.50*               |       |
|          | INVESTMENT CAPITAL                                   |         | UOH              | 3,486,901W          |       | 3,595,506W          |       |
|          |  |         | AGS              | 7,733,000C          |       | C                   |       |
| 11.      | UOH300 - HONOLULU COMMUNITY COLLEGE                  |         |                  |                     |       |                     |       |
|          | OPERATING  |         | UOH              | 286.00*             |       | 286.00*             |       |
|          |  |         |                  | 13,338,065A         |       | 13,253,281A         |       |
|          |  |         |                  | 5.00*               |       | 5.00*               |       |
|          |  |         | UOH              | 4,413,710B          |       | 4,545,710B          |       |
|          |  |         | UOH              | 111,000N            |       | 111,000N            |       |
|          |  |         |                  | 14.00*              |       | 14.00*              |       |
|          | INVESTMENT CAPITAL                                   |         | UOH              | 1,584,356W          |       | 1,714,356W          |       |
|          |  |         | AGS              | 136,000C            |       | 2,502,000C          |       |
| 12.      | UOH310 - KAPIOLANI COMMUNITY COLLEGE                 |         |                  |                     |       |                     |       |
|          | OPERATING  |         | UOH              | 298.10*             |       | 298.10*             |       |
|          |  |         |                  | 13,561,701A         |       | 13,429,432A         |       |
|          |  |         |                  | 18.00*              |       | 18.00*              |       |
|          |  |         | UOH              | 6,581,272B          |       | 6,781,272B          |       |
|          |  |         | UOH              | 91,020N             |       | 91,020N             |       |
|          |  |         |                  | 6.00*               |       | 6.00*               |       |
|          |  |         | UOH              | 2,200,174W          |       | 2,200,174W          |       |

PROGRAM APPROPRIATIONS

| ITEM<br>NO.                                    | PROG.<br>ID        | PROGRAM | EXPENDING<br>AGENCY | APPROPRIATIONS |   |             |   |
|--|--------------------|---------|---------------------|----------------|---|-------------|---|
|  |                    |         |                     | FISCAL         | M | FISCAL      | M |
|  |                    |         |                     | YEAR           | O | YEAR        | O |
|  |                    |         |                     | 1995-96        | F | 1996-97     | F |
| 13. UOH320 - LEEWARD COMMUNITY COLLEGE         |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 298.50*        |   | 298.50*     |   |
|  |                    |         |                     | 12,717,388A    |   | 12,610,919A |   |
|  |                    |         |                     | 10.00*         |   | 10.00*      |   |
|  |                    |         | UOH                 | 4,335,577B     |   | 4,670,577B  |   |
|  |                    |         | UOH                 | 125,000N       |   | 125,000N    |   |
|  |                    |         |                     | 4.00*          |   | 4.00*       |   |
|  |                    |         | UOH                 | 907,598W       |   | 907,598W    |   |
| 14. UOH330 - WINDWARD COMMUNITY COLLEGE        |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 103.40*        |   | 103.40*     |   |
|  |                    |         |                     | 4,428,088A     |   | 4,399,908A  |   |
|  |                    |         | UOH                 | 1,135,331B     |   | 1,200,331B  |   |
|  |                    |         | UOH                 | 19,907N        |   | 19,907N     |   |
|  |                    |         | UOH                 | 234,929W       |   | 284,929W    |   |
|  | INVESTMENT CAPITAL |         | AGS                 | 6,221,000C     |   | 16,300,000C |   |
| 15. UOH400 - HAWAII COMMUNITY COLLEGE          |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 121.50*        |   | 121.50*     |   |
|  |                    |         |                     | 5,675,374A     |   | 5,631,355A  |   |
|  |                    |         | UOH                 | 1,550,000B     |   | 1,680,000B  |   |
|  |                    |         | UOH                 | 70,000N        |   | 70,000N     |   |
|  |                    |         | UOH                 | 503,447W       |   | 503,447W    |   |
| 16. UOH500 - MAUI COMMUNITY COLLEGE            |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 156.00*        |   | 156.00*     |   |
|  |                    |         |                     | 7,957,732A     |   | 7,918,731A  |   |
|  |                    |         |                     | 6.50*          |   | 6.50*       |   |
|  |                    |         | UOH                 | 2,305,743B     |   | 2,409,743B  |   |
|  |                    |         | UOH                 | 88,000N        |   | 88,000N     |   |
|  |                    |         |                     | 3.00*          |   | 3.00*       |   |
|  | INVESTMENT CAPITAL |         | UOH                 | 819,653W       |   | 819,653W    |   |
|  |                    |         | AGS                 | 5,888,000C     |   | C           |   |
| 17. UOH600 - KAUAI COMMUNITY COLLEGE           |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 140.00*        |   | 140.00*     |   |
|  |                    |         |                     | 6,124,836A     |   | 6,099,782A  |   |
|  |                    |         | UOH                 | 1,443,389B     |   | 1,508,389B  |   |
|  |                    |         | UOH                 | 36,000N        |   | 36,000N     |   |
|  |                    |         |                     | 2.00*          |   | 2.00*       |   |
|  |                    |         | UOH                 | 495,301W       |   | 495,301W    |   |
| 18. UOH700 - UNIVERSITY OF HAWAII AT WEST OAHU |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 41.50*         |   | 41.50*      |   |
|  |                    |         |                     | 2,146,992A     |   | 2,129,858A  |   |
|  |                    |         | UOH                 | 516,590B       |   | 566,590B    |   |
|  |                    |         | UOH                 | 25,000W        |   | 25,000W     |   |
|  | INVESTMENT CAPITAL |         | AGS                 | 560,000C       |   | 940,000C    |   |
| 19. UOH900 - UOH, SYSTEM WIDE SUPPORT          |                    |         |                     |                |   |             |   |
|  | OPERATING          |         | UOH                 | 346.50*        |   | 346.50*     |   |
|  |                    |         |                     | 24,496,998A    |   | 24,496,998A |   |
|  |                    |         |                     | 4.00*          |   | 4.00*       |   |
|  |                    |         | UOH                 | 200,000B       |   | 200,000B    |   |
|  |                    |         |                     | 4.00*          |   | 4.00*       |   |
|  |                    |         | UOH                 | 457,667N       |   | 457,667N    |   |
|  |                    |         |                     | 100.00*        |   | 100.00*     |   |
|  | INVESTMENT CAPITAL |         | UOH                 | 40,195,572W    |   | 41,379,604W |   |
|  |                    |         | AGS                 | 2,581,000C     |   | C           |   |
|  |                    |         | UOH                 | 300,000C       |   | C           |   |

## PROGRAM APPROPRIATIONS

| ITEM NO.  | PROG. ID           | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS          |          |                         |       |
|---|--------------------|---------|------------------|-------------------------|----------|-------------------------|-------|
|   |                    |         |                  | FISCAL YEAR 1995-96     | M O F    | FISCAL YEAR 1996-97     | M O F |
|   |                    |         | UOH              |                         | 1,000R   |                         | R     |
|   |                    |         | UOH              |                         | 500,000W |                         | W     |
| 20. UOH906 - COMMUNITY COLLEGE SYSTEMWIDE SUPPORT |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | UOH              | 66.75*                  |          | 66.75*                  |       |
|   |                    |         | UOH              | 7,948,301A              |          | 7,948,301A              |       |
|   |                    |         |                  | 7,945,801A <sup>1</sup> |          | 7,945,801A <sup>1</sup> |       |
|   |                    |         |                  | 10.00*                  |          | 10.00*                  |       |
|   |                    |         | UOH              | 1,070,872B              |          | 1,070,872B              |       |
|   |                    |         |                  | 15.60*                  |          | 15.60*                  |       |
|   |                    |         | UOH              | 3,000,000N              |          | 3,000,000N              |       |
|   |                    |         | UOH              | 149,950W                |          | 149,950W                |       |
| H. CULTURE AND RECREATION                         |                    |         |                  |                         |          |                         |       |
| 1. UOH881 - AQUARIA                               |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | UOH              | 13.00*                  |          | 13.00*                  |       |
|   |                    |         | UOH              | 704,444A                |          | 704,444A                |       |
|   |                    |         |                  | 7.00*                   |          | 7.00*                   |       |
|   |                    |         | UOH              | 1,318,689B              |          | 1,318,689B              |       |
| 2. CCA701 - HAWAII PUBLIC BROADCASTING            |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | CCA              | 44.00*                  |          | 44.00*                  |       |
|   |                    |         | CCA              | 1,781,017A              |          | 1,781,017A              |       |
|   |                    |         |                  | 3,784,845W              |          | 3,888,982W              |       |
| 3. AGS881 - PERFORMING & VISUAL ARTS EVENTS       |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | AGS              | 15.00*                  |          | 15.00*                  |       |
|   |                    |         |                  | 4,479,246A              |          | 4,479,246A              |       |
|   |                    |         |                  | 3.00*                   |          | 3.00*                   |       |
|   |                    |         | AGS              | 3,810,915B              |          | 3,918,664B              |       |
|   |                    |         | AGS              | 660,000N                |          | 680,000N                |       |
|   |                    |         | AGS              | 15,000R                 |          | 15,000R                 |       |
| 4. AGS818 - ETHNIC GROUP PRESENTATIONS            |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | AGS              | 1.00*                   |          |                         | *     |
|   |                    |         |                  | 98,884A                 |          |                         | A     |
| 5. LNR802 - HISTORIC PRESERVATION                 |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | LNR              | 16.00*                  |          | 16.00*                  |       |
|   |                    |         | LNR              | 968,017A                |          | 968,017A                |       |
|   |                    |         | LNR              | 19,000B                 |          | 19,000B                 |       |
|   | INVESTMENT CAPITAL |         | LNR              | 421,100N                |          | 421,100N                |       |
|   |                    |         | LNR              | 50,000C                 |          |                         | C     |
| 6. LNR804 - FOREST RECREATION                     |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | LNR              | 43.00*                  |          | 43.00*                  |       |
|   |                    |         | LNR              | 1,663,914A              |          | 1,663,914A              |       |
|   |                    |         |                  | 3.00*                   |          | 3.00*                   |       |
|   |                    |         | LNR              | 495,506N                |          | 495,506N                |       |
|   |                    |         | LNR              | 150,000W                |          | 150,000W                |       |
| 7. LNR805 - RECREATIONAL FISHERIES                |                    |         |                  |                         |          |                         |       |
|   | OPERATING          |         | LNR              | 8.00*                   |          | 8.00*                   |       |
|   |                    |         | LNR              | 232,900A                |          | 232,900A                |       |
|   |                    |         | LNR              | 37,000B                 |          | 37,000B                 |       |
|   |                    |         | LNR              | 375,676N                |          | 375,676N                |       |
| 8. LNR806 - PARK DEVELOPMENT AND OPERATION        |                    |         |                  |                         |          |                         |       |
|   |                    |         |                  | 126.00*                 |          | 126.00*                 |       |

## PROGRAM APPROPRIATIONS

| ITEM NO.                | PROG. ID | PROGRAM                                    | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|-------------------------|----------|--|------------------|---------------------|-------|---------------------|-------|
|                         |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|                         |          | OPERATING                                  | LNR              | 6,382,507A          |       | 6,189,299A          |       |
|                         |          | INVESTMENT CAPITAL                         | LNR              | 700,000C            |       |                     | C     |
| 9.                      | LNR801   | - OCEAN-BASED RECREATION                   |                  |                     |       |                     |       |
|                         |          |  |                  | 81.00*              |       | 81.00*              |       |
|                         |          | OPERATING                                  | LNR              | 10,695,640B         |       | 10,695,640B         |       |
|                         |          |  | LNR              | 700,000N            |       | 700,000N            |       |
|                         |          | INVESTMENT CAPITAL                         | LNR              | 816,000B            |       |                     | B     |
|                         |          |  | LNR              | 300,000C            |       |                     | C     |
| 10.                     | AGS889   | - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM |                  |                     |       |                     |       |
|                         |          |  |                  | 41.00*              |       | 41.00*              |       |
|                         |          | OPERATING                                  | AGS              | 5,373,183B          |       | 4,979,183B          |       |
|                         |          | INVESTMENT CAPITAL                         | AGS              | 339,000B            |       | 5,152,000B          |       |
| 11.                     | LNR807   | - PARK INTERPRETATION                      |                  |                     |       |                     |       |
|                         |          |  |                  | 8.00*               |       | 8.00*               |       |
|                         |          | OPERATING                                  | LNR              | 347,905B            |       | 347,905B            |       |
| 12.                     | LNR809   | - PARKS ADMINISTRATION                     |                  |                     |       |                     |       |
|                         |          |  |                  | 13.00*              |       | 13.00*              |       |
|                         |          | OPERATING                                  | LNR              | 611,727A            |       | 611,727A            |       |
|                         |          |  | LNR              | 285,201N            |       | 285,201N            |       |
| <b>I. PUBLIC SAFETY</b> |          |  |                  |                     |       |                     |       |
| 1.                      | PSD402   | - HALAWA CORRECTIONAL FACILITY             |                  |                     |       |                     |       |
|                         |          |  |                  | 418.00*             |       | 418.00*             |       |
|                         |          | OPERATING                                  | PSD              | 15,241,317A         |       | 15,241,317A         |       |
|                         |          |  | PSD              | 740,220W            |       | 814,242W            |       |
|                         |          | INVESTMENT CAPITAL                         | AGS              |                     | C     | 476,000C            |       |
| 2.                      | PSD403   | - KULANI CORRECTIONAL FACILITY             |                  |                     |       |                     |       |
|                         |          |  |                  | 80.00*              |       | 80.00*              |       |
|                         |          | OPERATING                                  | PSD              | 3,235,365A          |       | 3,235,365A          |       |
|                         |          | INVESTMENT CAPITAL                         | AGS              | 1,435,000C          |       |                     | C     |
| 3.                      | PSD404   | - WAIAWA CORRECTIONAL FACILITY             |                  |                     |       |                     |       |
|                         |          |  |                  | 74.00*              |       | 74.00*              |       |
|                         |          | OPERATING                                  | PSD              | 2,792,392A          |       | 2,792,392A          |       |
|                         |          |  | PSD              | 163,084W            |       | 179,392W            |       |
| 4.                      | PSD405   | - HAWAII COMMUNITY CORRECTIONAL CENTER     |                  |                     |       |                     |       |
|                         |          |  |                  | 97.00*              |       | 167.00*             |       |
|                         |          | OPERATING                                  | PSD              | 3,365,623A          |       | 5,977,616A          |       |
| 5.                      | PSD406   | - MAUI COMMUNITY CORRECTIONAL CENTER       |                  |                     |       |                     |       |
|                         |          |  |                  | 180.00*             |       | 180.00*             |       |
|                         |          | OPERATING                                  | PSD              | 5,331,686A          |       | 5,365,886A          |       |
|                         |          |  | PSD              | 35,564S             |       | 35,564S             |       |
| 6.                      | PSD407   | - OAHU COMMUNITY CORRECTIONAL CENTER       |                  |                     |       |                     |       |
|                         |          |  |                  | 443.00*             |       | 443.00*             |       |
|                         |          | OPERATING                                  | PSD              | 17,203,376A         |       | 17,203,376A         |       |
|                         |          |  | PSD              | 559,154W            |       | 615,069W            |       |
|                         |          | INVESTMENT CAPITAL                         | AGS              | 341,000C            |       |                     | C     |
| 7.                      | PSD408   | - KAUAI COMMUNITY CORRECTIONAL CENTER      |                  |                     |       |                     |       |
|                         |          |  |                  | 63.00*              |       | 63.00*              |       |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM  | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|----------|--|------------------|---------------------|-------|---------------------|-------|
|          |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |          | OPERATING                                      | PSD              | 2,041,555A          |       | 2,265,176A          |       |
| 8.       |          | PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER |                  | 76.00*              |       | 76.00*              |       |
|          |          | OPERATING                                      | PSD              | 3,237,344A          |       | 3,238,394A          |       |
|          |          | INVESTMENT CAPITAL                             | AGS              | 624,000C            |       | 5,069,000C          |       |
| 9.       |          | PSD410 - INTAKE SERVICE CENTERS                |                  | 37.00*              |       | 37.00*              |       |
|          |          | OPERATING                                      | PSD              | 1,593,811A          |       | 1,593,811A          |       |
| 10.      |          | PSD420 - CORRECTION PROGRAM SERVICES           |                  | 165.50*             |       | 165.50*             |       |
|          |          | OPERATING                                      | PSD              | 12,192,932A         |       | 12,563,944A         |       |
| 11.      |          | PSD421 - HEALTH CARE OFFICE                    |                  | 134.93*             |       | 134.93*             |       |
|          |          | OPERATING                                      | PSD              | 8,124,583A          |       | 8,128,583A          |       |
| 12.      |          | PSD501 - PROTECTIVE SERVICES                   |                  | 99.50*              |       | 99.50*              |       |
|          |          | OPERATING                                      | PSD              | 4,037,530A          |       | 4,037,530A          |       |
|          |          |  | PSD              | 29,890N             |       | 29,890N             |       |
|          |          |  |                  | 13.00*              |       | 13.00*              |       |
|          |          |  | PSD              | 1,312,680U          |       | 1,312,680U          |       |
| 13.      |          | PSD502 - NARCOTICS ENFORCEMENT                 |                  | 14.00*              |       | 12.00*              |       |
|          |          | OPERATING                                      | PSD              | 586,024A            |       | 487,473A            |       |
|          |          |  |                  | *                   |       | 2.00*               |       |
|          |          |  | PSD              | B                   |       | 98,551B             |       |
| 14.      |          | PSD503 - SHERIFF                               |                  | 144.00*             |       | 144.00*             |       |
|          |          | OPERATING                                      | PSD              | 4,181,436A          |       | 4,181,436A          |       |
| 15.      |          | PSD504 - MARITIME LAW ENFORCEMENT              |                  | 29.00*              |       | 29.00*              |       |
|          |          | OPERATING                                      | PSD              | 746,967A            |       | 746,967A            |       |
|          |          |  |                  | 45.00*              |       | 45.00*              |       |
|          |          |  | PSD              | 2,025,277U          |       | 2,097,286U          |       |
| 16.      |          | PSD611 - ADULT PAROLE DETERMINATIONS           |                  | 2.00*               |       | 2.00*               |       |
|          |          | OPERATING                                      | PSD              | 198,223A            |       | 198,223A            |       |
| 17.      |          | PSD612 - ADULT PAROLE SUPERVISION & COUNSELING |                  | 42.00*              |       | 42.00*              |       |
|          |          | OPERATING                                      | PSD              | 1,541,325A          |       | 1,541,325A          |       |
| 18.      |          | PSD613 - CRIMINAL INJURIES COMPENSATION        |                  | 6.00*               |       | 6.00*               |       |
|          |          | OPERATING                                      | PSD              | 241,225A            |       | 241,225A            |       |
| 19.      |          | PSD900 - GENERAL ADMINISTRATION                |                  | 155.10*             |       | 155.10*             |       |
|          |          | OPERATING                                      | PSD              | 9,795,938A          |       | 8,716,419A          |       |
|          |          |  | PSD              | 25,065T             |       | 25,065T             |       |
|          |          |  |                  | 9.00*               |       | 9.00*               |       |
|          |          |  | PSD              | 8,026,000W          |       | 9,488,458W          |       |



## PROGRAM APPROPRIATIONS

| ITEM NO.                    | PROG. ID           | PROGRAM                                      | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|-----------------------------|--------------------|--|------------------|---------------------|-------|---------------------|-------|
|                             |                    |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|                             |                    | INVESTMENT CAPITAL                           | PSD              | 742,980X            |       | 742,980X            |       |
|                             |                    |  | AGS              | 494,000C            |       |                     | C     |
| 20.                         | ATG231             | STATE CRIMINAL JUSTICE INFO & IDENTIFICATION |                  |                     |       |                     |       |
|                             |                    |  |                  | 40.00*              |       | 40.00*              |       |
|                             | OPERATING          |  | ATG              | 1,834,698A          |       | 1,834,698A          |       |
|                             |                    |  |                  | 1.00*               |       | 1.00*               |       |
|                             |                    |  | ATG              | 19,920W             |       | 19,920W             |       |
| 21.                         | LNR810             | PREVENTION OF NATURAL DISASTERS              |                  |                     |       |                     |       |
|                             |                    |  |                  | 4.00*               |       | 4.00*               |       |
|                             | OPERATING          |  | LNR              | 210,017A            |       | 210,017A            |       |
|                             |                    |  | LNR              | 40,000N             |       | 40,000N             |       |
| 22.                         | DEF110             | AMELIORATION OF PHYSICAL DISASTERS           |                  |                     |       |                     |       |
|                             |                    |  |                  | 132.05*             |       | 132.05*             |       |
|                             | OPERATING          |  | DEF              | 6,856,999A          |       | 6,763,507A          |       |
|                             |                    |  |                  | 31.95*              |       | 31.95*              |       |
|                             |                    |  | DEF              | 4,778,134N          |       | 5,183,177N          |       |
|                             | INVESTMENT CAPITAL |  | AGS              | 1,267,000C          |       | 1,667,000C          |       |
|                             |                    |  | AGS              | 502,000N            |       | 7,400,000N          |       |
|                             |                    |  | DEF              | 600,000C            |       |                     | C     |
|                             |                    |  | DEF              | 500,000N            |       | 19,500,000N         |       |
| <b>J. INDIVIDUAL RIGHTS</b> |                    |  |                  |                     |       |                     |       |
| 1.                          | AGR810             | TESTING & CERTIFICATION OF CONSUMER GOODS    |                  |                     |       |                     |       |
|                             |                    |  |                  | 20.25*              |       | 20.25*              |       |
|                             | OPERATING          |  | AGR              | 766,781A            |       | 770,749A            |       |
|                             |                    |  |                  | 23.25*              |       | 23.25*              |       |
|                             |                    |  | AGR              | 1,182,660N          |       | 1,182,660N          |       |
| 2.                          | CCA102             | CABLE TELEVISION                             |                  |                     |       |                     |       |
|                             |                    |  |                  | 2.00*               |       | 2.00*               |       |
|                             | OPERATING          |  | CCA              | 706,334X            |       | 721,056X            |       |
| 3.                          | CCA103             | CONSUMER ADVOCATE FOR COMM, UTIL & TRANS SVC |                  |                     |       |                     |       |
|                             |                    |  |                  | 20.00*              |       | 20.00*              |       |
|                             | OPERATING          |  | CCA              | 2,075,522U          |       | 2,075,522U          |       |
| 4.                          | CCA104             | FINANCIAL INSTITUTION SERVICES               |                  |                     |       |                     |       |
|                             |                    |  |                  | 25.00*              |       | 25.00*              |       |
|                             | OPERATING          |  | CCA              | 1,337,476A          |       | 1,162,476A          |       |
|                             |                    |  |                  | 5.00*               |       | 5.00*               |       |
|                             |                    |  | CCA              | 450,000W            |       | 450,000W            |       |
| 5.                          | CCA105             | PROFESSIONAL, VOCATIONAL & PERSONAL SVCS     |                  |                     |       |                     |       |
|                             |                    |  |                  | 58.00*              |       | 58.00*              |       |
|                             | OPERATING          |  | CCA              | 3,773,540B          |       | 3,835,094B          |       |
|                             |                    |  | CCA              | 1,770,716T          |       | 1,782,759T          |       |
| 6.                          | BUF901             | TRANSPORTATION, COMMUNICATIONS, & UTILITIES  |                  |                     |       |                     |       |
|                             |                    |  |                  | 44.00*              |       | 44.00*              |       |
|                             | OPERATING          |  | BUF              | 5,652,234B          |       | 5,704,225B          |       |
| 7.                          | CCA106             | INSURANCE SERVICES                           |                  |                     |       |                     |       |
|                             |                    |  |                  | 31.00*              |       | 31.00*              |       |
|                             | OPERATING          |  | CCA              | 1,318,045A          |       | 1,318,045A          |       |
|                             |                    |  | CCA              | 1,424,160B          |       | 1,474,006B          |       |
|                             |                    |  | CCA              | 133,130T            |       | 135,518T            |       |

## PROGRAM APPROPRIATIONS

| ITEM NO.                          | PROG. ID           | PROGRAM                                       | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|-----------------------------------|--------------------|---|------------------|---------------------|-------|---------------------|-------|
|                                   |                    |   |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|                                   |                    |   | CCA              | 14.00*              |       | 14.00*              |       |
|                                   |                    |   |                  | 3,332,562W          |       | 3,422,753W          |       |
| 8.                                | CCA110             | - OFFC OF CONSUMER PROT - UNFAIR/DECEP PRAC   |                  |                     |       |                     |       |
|                                   | OPERATING          |   | CCA              | 24.00*              |       | 24.00*              |       |
|                                   |                    |   | CCA              | 942,719A            |       | 942,719A            |       |
|                                   |                    |   | CCA              | 10,320T             |       | 10,681T             |       |
| 9.                                | AGR812             | - MEASUREMENT STANDARDS                       |                  |                     |       |                     |       |
|                                   | OPERATING          |   | AGR              | 20.00*              |       | 20.00*              |       |
|                                   |                    |   |                  | 722,277A            |       | 722,277A            |       |
| 10.                               | CCA111             | - BUSINESS REGISTRATION                       |                  |                     |       |                     |       |
|                                   | OPERATING          |   | CCA              | 57.00*              |       | 57.00*              |       |
|                                   |                    |   |                  | 3,601,249B          |       | 3,613,601B          |       |
| 11.                               | CCA112             | - REGULATED INDUSTRIES COMPLAINTS OFFICE      |                  |                     |       |                     |       |
|                                   | OPERATING          |   | CCA              | 15.00*              |       | 15.00*              |       |
|                                   |                    |   |                  | 518,078A            |       | 518,078A            |       |
|                                   |                    |   | CCA              | 4.00*               |       | 4.00*               |       |
|                                   |                    |   |                  | 5,000,621B          |       | 5,072,283B          |       |
| 12.                               | CCA191             | - GENERAL SUPPORT-PROTECTION OF THE CONSUMER  |                  |                     |       |                     |       |
|                                   | OPERATING          |   | CCA              | 33.00*              |       | 30.00*              |       |
|                                   |                    |   |                  | 2,081,785A          |       | 2,014,039A          |       |
|                                   |                    |   | CCA              | *                   |       | 3.00*               |       |
|                                   |                    |   |                  | 1,409,969B          |       | 1,527,989B          |       |
| 13.                               | BUF151             | - LEGAL ASSISTANCE IN CRIMINAL ACTIONS        |                  |                     |       |                     |       |
|                                   | OPERATING          |   | BUF              | 82.00*              |       | 82.00*              |       |
|                                   |                    |   |                  | 6,599,891A          |       | 6,599,891A          |       |
| 14.                               | LNR111             | - CONVEYANCES AND RECORDINGS                  |                  |                     |       |                     |       |
|                                   | OPERATING          |   | LNR              | 52.00*              |       | 52.00*              |       |
|                                   |                    |   |                  | 1,885,784A          |       | 1,885,784A          |       |
|                                   |                    |   | LNR              | 4.00*               |       | 4.00*               |       |
|                                   |                    |   |                  | 143,768U            |       | 143,768U            |       |
| 15.                               | HMS888             | - COMMISSION ON THE STATUS OF WOMEN           |                  |                     |       |                     |       |
|                                   | OPERATING          |   |                  |                     |       |                     |       |
| 16.                               | LTG888             | - COMMISSION ON THE STATUS OF WOMEN           |                  |                     |       |                     |       |
|                                   | OPERATING          |   | LTG              | 1.00*               |       | 1.00*               |       |
|                                   |                    |   |                  | 111,788A            |       | 111,788A            |       |
| <b>K. GOVERNMENT-WIDE SUPPORT</b> |                    |   |                  |                     |       |                     |       |
| 1.                                | GOV100             | - OFFICE OF THE GOVERNOR                      |                  |                     |       |                     |       |
|                                   | OPERATING          |   | GOV              | 37.00*              |       | 37.00*              |       |
|                                   | INVESTMENT CAPITAL |   | GOV              | 2,981,004A          |       | 2,981,004A          |       |
|                                   |                    |   |                  | 1,000C              |       | 1,000C              |       |
| 2.                                | LTG100             | - OFFICE OF THE LIEUTENANT GOVERNOR           |                  |                     |       |                     |       |
|                                   | OPERATING          |   | LTG              | 12.00*              |       | 12.00*              |       |
|                                   |                    |   |                  | 3,949,521A          |       | 3,279,546A          |       |
| 3.                                | GOV102             | - GOV - OTH POLICY DEVELOPMENT & COORDINATION |                  |                     |       |                     |       |
|                                   | OPERATING          |   | GOV              | 8.00*               |       | 8.00*               |       |
|                                   |                    |   |                  | 2,069,323A          |       | 2,068,350A          |       |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID  | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS         |       |                        |       |
|----------|---|---------|------------------|------------------------|-------|------------------------|-------|
|          |   |         |                  | FISCAL YEAR 1995-96    | M O F | FISCAL YEAR 1996-97    | M O F |
| 4.       | GOV103 - STATEWIDE PLAN AND COORDINATION          |         |                  |                        |       |                        |       |
|          | OPERATING   |         | GOV              | 43.00*<br>3,129,979A   |       | 43.00*<br>3,129,979A   |       |
|          |   |         | GOV              | 4.00*<br>778,190N      |       | 4.00*<br>778,190N      |       |
| 5.       | BED103 - LAND USE AND COASTAL MANAGEMENT          |         |                  |                        |       |                        |       |
|          | OPERATING   |         | BED              | 7.00*<br>489,232A      |       | 7.00*<br>489,232A      |       |
| 6.       | BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY   |         |                  |                        |       |                        |       |
|          | OPERATING   |         | BED              | 4.00*<br>245,935A      |       | 4.00*<br>245,935A      |       |
|          |   |         | BED              | 3,300,000B             |       | 3,300,000B             |       |
|          | INVESTMENT CAPITAL                                |         | BED              | 4,550,000C             |       | 2,050,000C             |       |
|          |   |         | BED              | 5,001,000E             |       | E                      |       |
| 7.       | BUF101 - BUF - PRGM PLANNG, ANALYSIS & BUDGETING  |         |                  |                        |       |                        |       |
|          | OPERATING   |         | BUF              | 76.00*<br>191,926,406A |       | 76.00*<br>200,931,184A |       |
|          | INVESTMENT CAPITAL                                |         | AGS              | 3,000,000C             |       | C                      |       |
| 8.       | LTG101 - CAMPAIGN SPENDING COMMISSION             |         |                  |                        |       |                        |       |
|          | OPERATING   |         | LTG              | 4.00*<br>239,360A      |       | 4.00*<br>237,860A      |       |
|          |   |         | LTG              | 100,000T               |       | 4,000,000T             |       |
| 9.       | TAX102 - INCOME ASSESSMENT AND AUDIT              |         |                  |                        |       |                        |       |
|          | OPERATING   |         | TAX              | 119.00*<br>4,259,523A  |       | 119.00*<br>4,259,523A  |       |
| 10.      | TAX103 - TAX COLLECTIONS ENFORCEMENT              |         |                  |                        |       |                        |       |
|          | OPERATING   |         | TAX              | 103.00*<br>3,124,018A  |       | 103.00*<br>3,124,018A  |       |
| 11.      | TAX105 - TAX SERVICES & PROCESSING                |         |                  |                        |       |                        |       |
|          | OPERATING   |         | TAX              | 97.00*<br>4,979,029A   |       | 97.00*<br>4,979,029A   |       |
| 12.      | TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION |         |                  |                        |       |                        |       |
|          | OPERATING   |         | TAX              | 58.00*<br>7,165,489A   |       | 58.00*<br>4,595,443A   |       |
| 13.      | AGS101 - ACCT SYSTEM DEVELOPMENT & MAINTENANCE    |         |                  |                        |       |                        |       |
|          | OPERATING   |         | AGS              | 9.00*<br>381,955A      |       | 9.00*<br>381,955A      |       |
| 14.      | AGS102 - EXPENDITURE EXAMINATION                  |         |                  |                        |       |                        |       |
|          | OPERATING   |         | AGS              | 21.00*<br>958,135A     |       | 21.00*<br>958,135A     |       |
| 15.      | AGS103 - RECORDING AND REPORTING                  |         |                  |                        |       |                        |       |
|          | OPERATING   |         | AGS              | 14.00*<br>574,221A     |       | 14.00*<br>574,221A     |       |
| 16.      | AGS104 - INTERNAL POST AUDIT                      |         |                  |                        |       |                        |       |
|          | OPERATING   |         | AGS              | 14.00*<br>1,279,022A   |       | 14.00*<br>1,279,022A   |       |

## PROGRAM APPROPRIATIONS

| ITEM NO.   | PROG. ID           | PROGRAM | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|--|--------------------|---------|------------------|---------------------|-------|---------------------|-------|
|  |                    |         |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| 17. BUF115 - FINANCIAL ADMINISTRATION DIVISION                         |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | BUF              | 29.00*              |       | 29.00*              |       |
|  |                    |         | BUF              | 426,497,397A        |       | 434,144,527A        |       |
|  |                    |         | BUF              | 6,470,000T          |       | 6,980,000T          |       |
|  |                    |         | BUF              | 5,525U              |       | 5,525U              |       |
| 18. ATG100 - LEGAL SERVICES  |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | ATG              | 208.76*             |       | 208.76*             |       |
|  |                    |         | ATG              | 15,631,138A         |       | 15,631,138A         |       |
|  |                    |         | ATG              | 184,296B            |       | 184,296B            |       |
|  |                    |         | ATG              | 12.00*              |       | 12.00*              |       |
|  |                    |         | ATG              | 4,316,618N          |       | 4,443,250N          |       |
|  |                    |         | ATG              | 3,318,000T          |       | 3,318,000T          |       |
|  |                    |         | ATG              | 41.24*              |       | 41.24*              |       |
|  |                    |         | ATG              | 4,069,698U          |       | 4,074,346U          |       |
|  |                    |         | ATG              | 3,000,000W          |       | 3,000,000W          |       |
| 19. BUF131 - ELECTRONIC DATA PROCESSING SERVICES                       |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | BUF              | 224.00*             |       | 224.00*             |       |
|  |                    |         | BUF              | 13,690,611A         |       | 13,658,111A         |       |
|  |                    |         | BUF              | 34.00*              |       | 34.00*              |       |
|  |                    |         | BUF              | 1,586,231U          |       | 1,586,231U          |       |
| 20. BUF161 - COMMUNICATION   |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | BUF              | 11.00*              |       | 11.00*              |       |
|  |                    |         | BUF              | 4,609,041A          |       | 4,609,041A          |       |
|  | INVESTMENT CAPITAL |         | AGS              | 1,292,189U          |       | 1,355,171U          |       |
|  |                    |         | AGS              | 668,000C            |       | 172,000C            |       |
| 21. BUF162 - HAWAII INFORMATION NETWORK CORP.                          |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         |                  |                     |       |                     |       |
| 22. HRD102 - WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION AND EFF. |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | HRD              | 139.00*             |       | 139.00*             |       |
|  |                    |         | HRD              | 25,561,291A         |       | 27,384,213A         |       |
|  |                    |         | HRD              | 1,423,651U          |       | 1,708,381U          |       |
|  |                    |         | HRD              | 415,694W            |       | 415,694W            |       |
| 23. HRD191 - SUPPORTING SERVICES-PERSONNEL SERVICES                    |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | HRD              | 17.00*              |       | 17.00*              |       |
|  |                    |         | HRD              | 1,240,932A          |       | 1,240,932A          |       |
| 24. BUF141 - RETIREMENT  |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | BUF              | 267,823,914A        |       | 325,772,985A        |       |
|  |                    |         | BUF              | 47.00*              |       | 47.00*              |       |
|  |                    |         | BUF              | 2,857,925X          |       | 2,857,925X          |       |
| 25. BUF142 - HEALTH & LIFE INSURANCE BENEFITS                          |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | BUF              | 15.00*              |       | 15.00*              |       |
|  |                    |         | BUF              | 708,484A            |       | 717,104A            |       |
|  |                    |         | BUF              | 316,420,000T        |       | 372,098,000T        |       |
| 26. LNR101 - PUBLIC LANDS MANAGEMENT                                   |                    |         |                  |                     |       |                     |       |
|  | OPERATING          |         | LNR              | 41.00*              |       | 41.00*              |       |
|  |                    |         | LNR              | 1,365,258A          |       | 1,352,164A          |       |
|  |                    |         | LNR              | 1,248,000B          |       | 1,248,000B          |       |
|  | INVESTMENT CAPITAL |         | LNR              | 2,016,000B          |       | 957,000B            |       |
| 27. AGS203 - RISK MANAGEMENT   |                    |         |                  |                     |       |                     |       |
|  |                    |         |                  | 5.00*               |       | 5.00*               |       |

## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID | PROGRAM                                    | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|----------|--|------------------|---------------------|-------|---------------------|-------|
|          |          |  |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |          | OPERATING                                  | AGS              | 5,556,358A          |       | 5,556,358A          |       |
|          |          |  | AGS              | 11,590,000W         |       | 7,825,000W          |       |
| 28.      | AGS211   | LAND SURVEY                                |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 23.00*              |       | 23.00*              |       |
|          |          |  |                  | 801,215A            |       | 801,215A            |       |
| 29.      | AGS223   | OFFICE LEASING                             |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 5.00*               |       | 5.00*               |       |
|          |          |  | AGS              | 19,524,910A         |       | 15,834,197A         |       |
|          |          |  | AGS              | 5,500,000U          |       | 5,500,000U          |       |
| 30.      | AGS221   | CONSTRUCTION                               |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 24.00*              |       | 24.00*              |       |
|          |          |  | AGS              | 1,165,113A          |       | 1,165,113A          |       |
|          |          | INVESTMENT CAPITAL                         | AGS              | 4,000,000W          |       | 4,000,000W          |       |
|          |          |  | AGS              | 13,787,000C         |       | 6,005,000C          |       |
|          |          |  | BED              | 19,000,000C         |       |                     | C     |
| 31.      | AGS231   | CUSTODIAL SERVICES                         |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 155.50*             |       | 155.50*             |       |
|          |          |  | AGS              | 9,597,834A          |       | 9,597,834A          |       |
|          |          |  |                  | 430,501U            |       | 430,501U            |       |
| 32.      | AGS232   | GROUNDS MAINTENANCE                        |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 30.00*              |       | 30.00*              |       |
|          |          |  |                  | 1,020,794A          |       | 1,020,794A          |       |
| 33.      | AGS233   | BUILDING REPAIRS AND ALTERATIONS           |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 28.00*              |       | 28.00*              |       |
|          |          |  |                  | 3,011,909A          |       | 3,011,909A          |       |
| 34.      | AGS240   | CENTRAL PURCHASING                         |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 18.00*              |       | 18.00*              |       |
|          |          |  |                  | 650,613A            |       | 650,613A            |       |
| 35.      | AGS244   | SURPLUS PROPERTY MANAGEMENT                |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 33,893A             |       | 33,893A             |       |
|          |          |  |                  | 4.00*               |       | 4.00*               |       |
|          |          |  | AGS              | 222,328W            |       | 166,981W            |       |
| 36.      | AGS251   | MOTOR POOL                                 |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 12.50*              |       | 12.50*              |       |
|          |          |  |                  | 1,261,647W          |       | 1,264,535W          |       |
| 37.      | AGS252   | PARKING CONTROL                            |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 20.50*              |       | 20.50*              |       |
|          |          |  |                  | 3,011,813W          |       | 2,743,283W          |       |
| 38.      | AGS111   | RECORDS MANAGEMENT                         |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 26.00*              |       | 26.00*              |       |
|          |          |  |                  | 734,701A            |       | 734,701A            |       |
| 39.      | AGS901   | GENRL ADM SVCS - ACCOUNTING & GENERAL SVCS |                  |                     |       |                     |       |
|          |          | OPERATING                                  | AGS              | 52.00*              |       | 52.00*              |       |
|          |          |  |                  | 2,186,044A          |       | 2,186,044A          |       |
| 40.      | SUB201   | CITY AND COUNTY OF HONOLULU                |                  |                     |       |                     |       |
|          |          | OPERATING                                  | SUB              | 1,584,600A          |       | 1,584,600A          |       |

PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID                  | PROGRAM            | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|---------------------------|--------------------|------------------|---------------------|-------|---------------------|-------|
|          |                           |                    |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |                           | INVESTMENT CAPITAL | CCH              | 2,450,000C          |       |                     | C     |
| 41.      | SUB301 - COUNTY OF HAWAII | OPERATING          | SUB              | 977,410A            |       | 977,410A            |       |
|          |                           | INVESTMENT CAPITAL | COH              | 1,600,000C          |       |                     | C     |
| 42.      | SUB401 - COUNTY OF MAUI   | OPERATING          | SUB              | 797,290A            |       | 597,290A            |       |
|          |                           | INVESTMENT CAPITAL | COM              | 2,000,000C          |       |                     | C     |
| 43.      | SUB501 - COUNTY OF KAUAI  | OPERATING          | SUB              | 373,290A            |       | 373,290A            |       |

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 4. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$100,000 for fiscal year 1995-1996 shall be used for continued economic revitalization through a contract with the Kauai economic development board; and provided further that no funds shall be made available unless matched on a one-to-seventeen basis by other sources.

SECTION 5. Provided that of the high technology development corporation special fund appropriation for commerce and industry (BED 102), the sum of \$70,000 for fiscal year 1995-1996 and the sum of \$70,000 for fiscal year 1996-1997 shall be used for the operation of a library at the Maui research and technology center through a contract with the Maui economic development board; and provided further that a report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 6. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$450,000 for fiscal year 1995-1996 shall be used for the development of a commercial remote sensing industry in the county of Hawaii including but not limited to environmental, medical, scientific, and agricultural applications; provided further that no funds shall be made available unless matched by direct monetary and in-kind support from private and/or United States governmental sources to complement state funding for this initiative; and provided further that a report on the expenditure of these funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 7. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$349,275 for fiscal year 1995-1996 shall be used for the operation of the international business center of Hawaii; provided further that the center shall submit a report to include, but not be limited to, the following:

- (1) An expenditure plan identifying the application of funds to activities conducted and/or planned;

- (2) An action plan for the implementation and management of the center for the current and next fiscal year;
- (3) An assessment of the effectiveness of the center in meeting identified objectives and goals; provided that the effectiveness shall be determined by the use of specific, quantitative measures that shall include:
  - (a) The number of international businesses brought in by the center;
  - (b) The total revenues versus expenditures generated by Hawaii businesses as a direct result of utilizing the center's services; and
  - (c) An assessment of the center's new service package and fee plan by businesses who utilize the center's services;

and provided further that a report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 8. Provided that of the general fund appropriation for state tourism office (BED 113), the amount expended in fiscal year 1995-1996 and in fiscal year 1996-1997 exclusive of contract with the Hawaii visitors bureau, shall not exceed \$2,000,000; and provided further that the state tourism office shall not reduce funding for the Hawaii visitors bureau.

SECTION 9. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$25,000,000 for fiscal year 1995-1996 and the sum of \$25,000,000 for fiscal year 1996-1997 shall be expended for marketing, promoting, and advertising Hawaii by the Hawaii visitors bureau; provided further that of the general fund appropriation to the Hawaii visitors bureau from the state tourism office (BED 113):

- (1) The amount expended for salaries, benefits, and related taxes, and office rent for the Hawaii visitors bureau shall not exceed \$3,500,000 for fiscal year 1995-1996 and shall not exceed \$3,500,000 for fiscal year 1996-1997;
- (2) The sum of \$200,000 for fiscal year 1995-1996 and the sum of \$200,000 for fiscal year 1996-1997 shall be expended for co-production costs of locally produced programming which achieve international recognition, and can service multiple tourism, marketing, and income-producing objectives; provided further that the Hawaii public broadcasting authority shall be the expending agency; and provided further that the Hawaii public broadcasting authority shall submit a report on the expenditure of these funds to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions;
- (3) The sum of \$1,576,575 for fiscal year 1995-1996 and the sum of \$1,765,404 for fiscal year 1996-1997 shall be used for pro bowl advertising, marketing, and promotion by the Hawaii visitors bureau; and provided further that a report on the expenditure of funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions;
- (4) The sum of \$1,000,000 for fiscal year 1995-1996 and the sum of \$1,000,000 for fiscal year 1996-1997 shall be used by the Hawaii visitors bureau for marketing, promoting, and advertising the new convention center;
- (5) The sum of \$850,000 for fiscal year 1995-1996 and the sum of \$850,000 for fiscal year 1996-1997 shall be used for sports promotion activities as follows:

|  | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|--|---------------------|---------------------|
| Honolulu Marathon                        | \$ 50,000           | \$ 50,000           |
| Senior Skins                             | \$200,000           | \$200,000           |
| Lincoln Mercury Kapalua<br>International | \$200,000           | \$200,000           |
| Kaanapali Classic                        | \$200,000           | \$200,000           |
| PGA Grand Slam of Golf                   | \$200,000           | \$200,000           |

provided further that the following conditions shall apply to the above events;

- (a) No funds shall be made available for the above events unless matched on a dollar-for-dollar basis by private sources;
- (b) Any unexpended and unencumbered funds shall be returned to the state general fund; and
- (c) Each of the above shall promote, market, or advertise Hawaii as a visitor destination;

and provided further that no other funds of the general fund appropriation to the Hawaii visitors bureau shall be used for sports promotion;

- (6) The sum of \$100,000 for fiscal year 1995-1996 and the sum of \$100,000 for fiscal year 1996-1997 shall be expended for the Hawaii international film festival; and provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private funds;
- (7) A minimum of \$3,500,000 shall be expended in fiscal year 1995-1996 and a minimum of \$3,500,000 shall be expended in fiscal year 1996-1997 for island chapter marketing;
- (8) The sum of \$5,000,000 for fiscal year 1995-1996 and the sum of \$5,000,000 for fiscal year 1996-1997 shall be used to implement a marketing strategy based on the following types of media and pre-determined ratios:
  - (a) The sum of \$2,650,000 for fiscal year 1995-1996 and the sum of \$2,650,000 for fiscal year 1996-1997 shall be used for branding a category based on the medium of television which lends itself to the establishment of Hawaii as a preferred destination and which is designed to attract large advertisers such as airlines or travel cards on a 2:1 state to private ratio;
  - (b) The sum of \$2,350,000 for fiscal year 1995-1996 and the sum of \$2,350,000 for fiscal year 1996-1997 shall be matched on a 1:1 state to private ratio;

provided further that these ratios represent the minimum level of private funds required to match state funds; and provided further that a report detailing the expenditure of funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 10. Provided that of the general fund appropriation for state tourism office (BED 113), the department of business, economic development, and tourism is authorized to fund the establishment and filling of one position, exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes, to assist the staff of the state tourism office in planning, development, and implementation of tourism programs; and provided further that the department shall submit a report on the activities of this position to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 11. Provided that of the general fund appropriation for state tourism office (BED 113), the department of business, economic development, and



tourism is authorized to fund the establishment and filling of one sports coordinator position, exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes; and provided further that the department shall submit a report on the activities of this position to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 12. Provided that of the revolving fund appropriation for financial assistance for agriculture (AGR 101), the sum of \$500,000 for fiscal year 1995-1996 shall be used in the form of loans to assist qualified farmers to eradicate the papaya ringspot virus; and provided further that the loans must qualify under the existing department of agriculture loan provisions.

### EMPLOYMENT

SECTION 13. Provided that of the general fund appropriation for the school to work transition center program (LBR 136), the sum of \$490,759 for fiscal year 1995-1996 and the sum of \$490,759 for fiscal year 1996-1997 shall be used for the quick kokua—Farrington and Waianae programs.

SECTION 14. Provided that of the general fund appropriation for unemployment compensation (LBR 171), the sum of \$4,501,534 for fiscal year 1995-1996 and the sum of \$4,501,534 for fiscal year 1996-1997 shall be used to cover unemployment compensation claims of former state employees; and provided further that the department shall submit a detailed report of all expenditures for such claims no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 15. Provided that of the general fund appropriation for the office of community service (LBR 903), no less than \$558,679 for fiscal year 1995-1996 and no less than \$458,679 for fiscal year 1996-1997 shall be used for purchases of services for job training programs for low income/disabled individuals in central Oahu; and provided further that of the general fund appropriation for the office of community service (LBR 903), no less than \$394,870 for fiscal year 1995-1996 and no less than \$294,870 for fiscal year 1996-1997 shall be used for purchases of services for job training for low income/disabled individuals in central Maui.

### TRANSPORTATION

SECTION 16. Provided that of the special fund appropriations for the airports division (TRN 102-TRN 163), the following sums specified for special repair and maintenance projects for fiscal biennium 1995-1997, shall be used for special repair and maintenance purposes only:

|         | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---------|---------------------|---------------------|
| TRN 102 | \$5,140,500         | \$4,010,500         |
| TRN 104 | \$ 100,000          | \$ 90,000           |
| TRN 111 | \$1,365,000         | \$ 935,000          |
| TRN 114 | \$ 210,000          | \$ 520,000          |
| TRN 131 | \$2,280,000         | \$ 914,500          |
| TRN 133 | \$ 95,000           | \$ 50,000           |
| TRN 135 | \$ 150,000          | \$ 150,000          |
| TRN 141 | \$ 315,000          | \$ 315,000          |
| TRN 151 |                     | \$ 530,000          |
| TRN 161 | \$1,405,000         | \$ 645,000          |
| TRN 163 |                     | \$ 210,000          |

provided further that any unexpended funds shall be lapsed into the airports revenue fund; provided further that the department of transportation shall prepare a report on the planned uses and actual expenditures of all special repair and maintenance appropriations as of June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1997 and 1998 regular sessions.

SECTION 17. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$200,000 for fiscal year 1995-1996 shall be used to develop a master plan that will incorporate Hawaii's unique cultural influences, activities, and products into the operations of the statewide airport system; provided further that a temporary Hawaii airports cultural development committee shall be established to develop the master plan, until June 30, 1997, when the committee shall cease to exist; provided further that the committee shall submit a progress report to the legislature no later than twenty days prior to the convening of the 1996 regular session; and provided further that a proposed master plan with recommendations for implementation shall be submitted to the legislature no later than twenty days prior to the convening of the 1997 regular session.

SECTION 18. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$1,000,000 for fiscal year 1995-1996 shall be used for marketing and promotional activities for airport facilities on the three counties of Kauai, Maui, and Hawaii; provided further that each county shall receive equal amounts; provided further that the marketing and promotional activities for the facilities shall meet the approval of the federal aviation administration; provided further that the department of transportation shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1996 regular session; and provided further that this section shall apply only if all funds appropriated under Act 252, session laws of Hawaii 1994, section 28.2 are lapsed.

SECTION 19. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$261,437,136 for the fiscal biennium 1995-1997 shall be used for only the following purposes:

| <u>Purpose</u>  | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---|---------------------|---------------------|
| Interest and Principal on<br>General Obligation Bonds | \$ 3,288,180        | \$ 593,589          |
| Interest and Principal on<br>Revenue Bonds            | \$128,823,277       | \$128,732,090       |

and provided further that any funds not used for this purpose shall be lapsed into the airports revenue fund.

SECTION 20. Provided that of the special fund appropriations for the harbors division (TRN 301-TRN 363), the following sums specified for special repair and maintenance projects for fiscal biennium 1995-1997, shall be used for special repair and maintenance purposes only:

|         | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---------|---------------------|---------------------|
| TRN 301 | \$3,121,000         | \$3,533,000         |
| TRN 303 | \$ 138,000          | \$ 138,000          |
| TRN 305 | \$ 258,000          | \$ 239,000          |
| TRN 311 | \$ 604,000          | \$ 609,000          |
| TRN 313 | \$ 248,000          | \$ 229,000          |
| TRN 331 | \$ 667,000          | \$ 678,000          |
| TRN 341 | \$ 110,000          | \$ 130,000          |
| TRN 361 | \$ 404,000          | \$ 396,000          |
| TRN 363 | \$ 225,000          | \$ 215,000          |

provided further that any unexpended funds shall be lapsed into the harbors revenue fund; provided further that the department of transportation shall prepare a report on the planned uses and actual expenditures of all special repair and maintenance appropriations as of June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1997 and 1998 regular sessions.

SECTION 21. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$41,542,000 for the fiscal biennium 1995-1997 shall be used for only the following purposes:

| <u>Purpose</u>  | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---|---------------------|---------------------|
| Interest and Principal on<br>General Obligation Bonds | \$ 1,092,000        | \$ 739,000          |
| Interest and Principal on<br>Revenue Bonds            | \$19,167,000        | \$20,544,000        |

and provided further that any funds not used for this purpose shall be lapsed into the harbors revenue fund.

SECTION 22. Provided that of the special fund appropriations for the highways division (TRN 501-TRN 595), the following sums specified for special repair and maintenance projects for fiscal biennium 1995-1997, shall be used for special repair and maintenance purposes only:

|         | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---------|---------------------|---------------------|
| TRN 501 | \$15,552,830        | \$17,811,440        |
| TRN 511 | \$11,924,906        | \$12,292,343        |
| TRN 531 | \$ 8,711,000        | \$ 9,232,000        |
| TRN 541 | \$ 1,772,000        | \$ 1,676,000        |
| TRN 551 | \$ 481,000          | \$ 400,000          |
| TRN 561 | \$ 2,415,000        | \$ 3,038,250        |
| TRN 595 | \$ 48,000           | \$ 1,414,000        |

provided further that any unexpended funds shall be lapsed back into the highways revenue fund; provided further that the department of transportation shall prepare a report on the planned uses and actual expenditures of all special repair and maintenance appropriations as of June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1997 and 1998 regular sessions.

SECTION 23. Provided that of the special fund appropriation for Hawaii highways (TRN 511), the sum of \$3,450,000 for fiscal year 1995-1996 and the sum of \$3,910,000 for fiscal year 1996-1997 shall be used only for the purpose of implementing the lead abatement program, as required by Chapter 12-148, Hawaii

administrative rules and regulations, lead exposure in construction; provided further that these funds shall not be used for any other purpose; provided further that any unexpended funds shall be lapsed into the highways revenue fund; and provided further that the department of transportation shall prepare a detailed progress report of the project and its expenditures no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 24. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$100,986,000 for the fiscal biennium 1995-1997 shall be used for only the following purposes:

| <u>Purpose</u>  | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---|---------------------|---------------------|
| Interest and Principal on<br>General Obligation Bonds | \$32,389,000        | \$32,070,000        |
| Interest and Principal on<br>Revenue Bonds            | \$21,203,000        | \$15,324,000        |

and provided further that any funds not used for this purpose shall be lapsed into the highways revenue fund.

SECTION 25. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$450,000 for fiscal year 1995-1996 and the sum of \$450,000 for fiscal year 1996-1997 shall be expended only for the purposes of paying the highway division's risk management costs as billed by the department of accounting and general services; provided further that these sums shall not be used for any other purpose; and provided further that any remaining sums shall be lapsed into the highways special fund.

#### ENVIRONMENTAL PROTECTION

SECTION 26. Provided that of the special fund appropriation for natural area reserve and management (LNR 407), determined to be in excess of fiscal year 1995-1996 requirements, as provided for in section 37-53, Hawaii Revised Statutes, the sum of \$800,000 shall be expended for the east Maui watershed management; provided further that the sum of \$500,000 shall be expended for brown tree snake control; and provided further that the sum of \$300,000 shall be expended for the youth conservation corps.

SECTION 27. Provided that of the environmental response revolving fund appropriation for the hazard evaluation and emergency response program (HTH 849), the sum of \$500,000 of the total revolving fund appropriation shall be set aside only for removal and remedial actions of released hazardous substances or pollutants or contaminants consistent under chapter 128D; provided further that the hazard evaluation and emergency response office shall submit a report to the legislature detailing the expenditures of these funds no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

#### HEALTH

SECTION 28. Provided that of the general fund appropriation for STD/AIDS prevention services (HTH 121), funds shall be provided for each year of the fiscal biennium 1995-1997 for the community health outreach work (CHOW) program; provided further that the CHOW program shall:

- (1) Provide outreach, health education and prevention services and referrals to injection drug users and high risk sexual partners for the prevention of HIV transmission;
- (2) Serve as the lead program for needle exchange services on a statewide basis, including coordination, monitoring, reporting, and evaluation of all needle exchange programs;
- (3) Cooperate, coordinate, and avoid duplication with other agencies and not for profit programs involved with HIV prevention and treatment services;
- (4) Continue data collection on injection drug users in the state of Hawaii to include ethnographic information on high risk behaviors, drug use patterns, and geographic mapping;
- (5) Encourage HIV counseling/testing for high risk substance abusers and sexual partners in the state of Hawaii;

provided further that of the general fund appropriation for STD/AIDS prevention services (HTH 121), funds shall be provided for each year of the fiscal biennium 1995-1997 for needle exchange and related services; and provided further that the CHOW program shall continue to be administered by the research corporation of the university of Hawaii (RCUH) because of the unusual program design, work hours, and research necessary to successfully meet its mandate.

SECTION 29. Provided that community hospitals (HTH 210) shall expend \$500,000 in fiscal year 1995-1996 and \$500,000 in fiscal year 1996-1997 for Samuel Mahelona Memorial hospital to utilize business interruption insurance monies received from hurricane Iniki claims.

SECTION 30. Provided that of the general fund appropriation for Hawaii state hospital (HTH 430), all appropriated positions shall be fully funded by the department of health; provided further that to fully comply with mandates by the United States department of justice, the department of health shall fill all currently vacant positions within the Hawaii state hospital; provided further that the department of human resources development shall assist the department of health towards this end by recruiting for all positions statewide; provided further that upon the filling of these positions, no further funds shall be expended for public health nursing contracts other than those required to meet emergency mandates; and provided further that the department of health shall submit a report detailing the status of all positions and efforts to fill vacancies to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 31. Provided that the legislative auditor shall conduct a fiscal, management, and staffing audit of Hawaii state hospital (HTH 430); provided further that this audit shall examine the use of contract nursing, the uses of funds from other programs, and the overall operations of the hospital; and provided further that the legislative auditor shall submit a report of findings and recommendations to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 32. Provided that of the appropriation for the department of health, the sum of \$29,930,903 for fiscal year 1995-1996 and the sum of \$29,930,903 for fiscal year 1996-1997 in general fund appropriations, the sum of \$1,902,292 for fiscal year 1995-1996 and the sum of \$1,902,292 for fiscal year 1996-1997 in special fund appropriations, and not less than the sum of \$1,507,861 for fiscal year 1995-1996 and not less than the sum of \$4,598,644 for fiscal year 1996-1997 in federal fund appropriations shall be used for the operation of child and

adolescent mental health (HTH 460); provided further that no positions appropriated to child and adolescent mental health (HTH 460) shall be used for purposes other than the provision of services to child and adolescent mental health (HTH 460); provided further that existing facilities operated by or on behalf of child and adolescent mental health (HTH 460) shall not be closed for purposes other than providing additional resources to the division; and provided further that child and adolescent mental health (HTH 460) shall not be consolidated with other divisions, programs, or agencies within the department of health.

SECTION 33. Provided that to ensure the continuing receipt of federal funding for the Hawaii ohana project in child and adolescent mental health (HTH 460), the department of health shall work to expedite the execution of the grant; provided further that the department shall provide all resources necessary to facilitate the expenditure of grant moneys; provided further that the department shall submit to the legislature a report detailing the status of the Hawaii ohana project and the progress of the grant in establishing a community-based care model for the provision of mental health services; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 34. Provided that of the general fund appropriation for child and adolescent mental health (HTH 460), the department of health shall expend at least \$750,000 in fiscal year 1995-1996 and \$1,500,000 in fiscal year 1996-1997 for an open ocean program for adjudicated and/or emotionally impaired adolescents; provided further that the department of health in conjunction with the provider shall develop a report assessing the clinical and fiscal results of the program as these results relate to the goals set out in the request for proposal (RFP); and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 35. Provided that of the general fund appropriation for developmental disabilities (HTH 501), the sum of \$4,295,130 for fiscal year 1995-1996 and the sum of \$4,295,130 for fiscal year 1996-1997 may be used for purchase of services as provided in chapter 42D, Hawaii Revised Statutes, or matching funds for Title XIX Medicaid community-based programs or both.

SECTION 36. Provided that of the general fund appropriation for developmental disabilities (HTH 501), the sum of \$400,000 or that amount that is excessive due to deinstitutionalization and savings for fiscal year 1995-1996 and fiscal year 1996-1997 may be used for purchase of services, matching funds for Title XIX Medicaid community-based programs, or to establish small community ICF/MR's.

SECTION 37. Provided that developmental disabilities (HTH 501) shall:

- (1) Continue to place residents into community-based programs;
- (2) Take actions to decrease total expenses related to the reduced client census at Waimano training school and hospital;
- (3) Decrease staffing positions and reallocate those appropriate positions from Waimano into the community;
- (4) Use excess funds resulting from the decrease in census for the creation of homes for individuals with medically fragile conditions or with severe challenging behaviors, behavioral treatment programs, crisis management teams, treatment and support services for persons with developmental disabilities;

- (5) Use excess funds resulting from the decrease in census for matching funds for Title XIX Medicaid community-based programs.

SECTION 38. Provided that for family health services (HTH 530), the research corporation of the university of Hawaii (RCUH) shall continue to be the administering agency for the zero-to-three project because of the unusual program design, work hours, and research necessary to successfully meet its mandate.

SECTION 39. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$94,703 for fiscal year 1995-1996 and the sum of \$94,703 for fiscal year 1996-1997 shall be expended to maintain the governor's committee on HIV/AIDS (GCHA); and provided further that the GCHA shall:

- (1) Recommend legislative and administrative action on HIV/AIDS issues to the governor, the legislature, and the administration;
- (2) Submit reports on HIV/AIDS issues as necessary to the governor, the legislature, and the administration;
- (3) Act as a consulting body for governmental and community plans for HIV/AIDS services, research, and support;
- (4) Develop short and long-term goals in identifying gaps and needs for HIV/AIDS and collaborate with state and community-based organizations to facilitate an ongoing review of HIV and AIDS related problems, issues, and needs in Hawaii;
- (5) Assist in creating public awareness, education and understanding of HIV/AIDS; and
- (6) Maintain on-going contacts with local, state, federal, and international HIV/AIDS agencies and organizations and arrange for participation by representatives of the state in national meetings and discussions, as needed.

## SOCIAL SERVICES

SECTION 40. Provided that any excess federal fund reimbursements under Title IV-A and Title IV-E above the federal fund appropriation for child welfare services (HMS 301) and child placement board and related client payments (HMS 303) for fiscal year 1995-1996 and for fiscal year 1996-1997 shall be returned to the general fund.

SECTION 41. Provided that of the matching federal fund appropriation received for the thirteenth month of payment for each fiscal year of the fiscal biennium 1995-1997 for payments to assist families with dependent children (HMS 201) shall be returned to the general fund.

SECTION 42. Provided that the department of human services shall use sixty per cent of the most recent available profile of the customary fees of health care practitioners adjusted to the seventy-fifth percentile within the limits of this appropriation, in establishing fees for individual practitioners for health care payments (HMS 230) in fiscal year 1995-1996 and in fiscal year 1996-1997.

SECTION 43. Provided that of the general fund appropriation and federal fund appropriation for the aged, blind, and disabled population in health care payments (HMS 230), no less than eighty-five per cent of the total sum is to be used for mandated services.

SECTION 44. Provided that of the general funds appropriated for health care payments (HMS 230) for fiscal year 1995-1996 and fiscal year 1996-1997, the department shall make efforts, within available funds, to ensure that cost-effective alternatives are utilized for the provision of long-term care services including community-based care in lieu of waitlisted acute care and nursing facility care.

SECTION 45. Provided that for the jobs opportunities and basic skills program (HMS 701), if the federal fund share of the program should be discontinued, all unexpended and unencumbered general funds for HMS 701 shall lapse back to the general fund; provided further that the department of human services shall report to the legislature the final disposition of all funds should the federal share of funding be discontinued; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

### FORMAL EDUCATION

SECTION 46. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$43,000 for fiscal year 1995-1996 shall be expended for Waianae high school to complete building of the cafeteria store room and for the purchase and installation of cafeteria equipment.

SECTION 47. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$30,000 for fiscal year 1995-1996 and the sum of \$30,000 for fiscal year 1996-1997 shall be used for the purpose of establishing a junior vocational industrial club of America for intermediate schools statewide.

SECTION 48. Provided that of the appropriation for school-based budgeting (EDN 100), the sum of \$3,271,004 for fiscal year 1995-1996 shall be expended for textbooks for regular instruction and library books, and the sum of \$400,000 shall be expended for the success compact program; provided further that of the general fund appropriation for school-based budgeting (EDN 100) the sum of \$1,999,200 for fiscal year 1996-1997 shall be expended for textbooks for regular instruction and library books; provided further that the funds for textbooks for regular instruction and for library books shall be allocated each school on a basic grant of \$2,000 for elementary schools, \$3,000 for intermediate schools, and \$4,000 for high schools; provided further that the remaining funds shall be distributed to each school on the basis of enrollment; and provided further that the department of education shall submit a report to the legislature detailing the amount allocated to each school no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 49. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$5,172,525 for fiscal year 1995-1996 and the sum of \$5,174,957 for fiscal year 1996-1997 shall be expended for special needs schools (EDN 100/BP).

SECTION 50. Provided that for school-based budgeting (EDN 100), no less than \$2,640,089 for fiscal year 1995-1996 and no less than \$2,640,260 for fiscal year 1996-1997 shall be used for the parent-community networking center program; provided further that for schools participating in the parent-community networking center program that do not have a paid facilitator position, each school may expend their funds for the parent-community networking center program for stipends, equipment, or for other purposes consistent with the aims of the parent-community networking center program.



SECTION 51. Provided that of the general fund appropriation for school based budgeting (EDN 200), the sum of \$157,912 for fiscal year 1995-1996 and the sum of \$157,912 for fiscal year 1996-1997 shall be expended for graduate level outreach programs on the island of Kauai.

SECTION 52. Provided that of the general fund appropriation for state and district administration (EDN 300) one capital improvements project (CIP) planner II position may be filled; provided further that this position may be filled using an existing educational officer position; provided further that the educational officer shall not suffer a reduction in either compensation or benefits as a result of reassignment; provided further that the department shall provide a report to the legislature detailing the CIP planner II position filled, the previous capacity of the individual filling the position, and the program identification number and organization code under which the position originally served; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 53. Provided that for state and district administration (EDN 300), the sum of \$1,342,925 for fiscal year 1995-1996 and the sum of \$1,342,925 for fiscal year 1996-1997 shall be used for the purpose of paying the department of education's portion of workers' compensation costs; provided further that these moneys shall be used only to transfer to the department of human resources development for this purpose; and provided further that any unused portion of these moneys shall be lapsed to the general fund.

SECTION 54. Provided that of the general fund appropriation for state and district administration (EDN 300), the sum of \$150,000 for fiscal year 1995-1996 and the sum of \$150,000 for fiscal year 1996-1997 shall be expended for vaccine, needles, gloves, and other equipment associated with bloodborne pathogens exposure control, and for community information services.

SECTION 55. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$8,000 for fiscal year 1995-1996 and the sum of \$8,000 for fiscal year 1996-1997 shall be allocated to each school for minor repairs and maintenance; provided further that the funds shall be used only for repairs and maintenance and shall not be used for personnel, minor improvements, or any other purpose; provided further that the department shall expend the funds only for school-level repairs and maintenance, and that the funds shall not be retained by the department for any other purpose; provided further that the department shall provide a report detailing the total expenditure, by school, of these funds; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 56. Provided that for the general fund appropriation for school support (EDN 400), the sum of \$63,560 for fiscal year 1995-1996 and the sum of \$76,272 for fiscal year 1996-1997 shall be used to fund one school food services manager III, one school cook II, and one school baker for the King Kaumualii Elementary school.

SECTION 57. Provided that of the general fund appropriation for school community service (EDN 500), a minimum of \$17,010,794 for fiscal year 1995-1996 and a minimum of \$17,010,794 for fiscal year 1996-1997 shall be expended for the A+ afterschool program; provided further that in addition to developing attendance formulae for program participants eligible for federal reimbursement, the

department of education shall work with the department of human services to calculate eligible facilities and support services costs for reimbursement; provided further that the department of education shall prepare a report reflecting the total number of enrollees, as well as facilities and support services costs for the A+ afterschool program that are eligible for federal reimbursement; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 58. Provided that of the general fund appropriation for physical plant operations and maintenance (AGS 807), the sum of \$16,000 for fiscal year 1995-1996 shall be expended for the repair and maintenance of Koko Head elementary school.

SECTION 59. Provided that of the general fund appropriation for the department of education for fiscal year 1995-1996, the department may fill vice principal II positions for the Konawaena middle school, Honokaa elementary school, and the Kohala elementary and high school; provided further that the department may fill one vice principal III position for King Kekaulike high school; provided further that these positions may be filled using existing educational officer positions; provided further that no educational officer shall suffer a reduction in either compensation or benefits as a result of reassignment; provided further that the department shall provide a report to the legislature detailing the vice principal positions filled, the previous capacity of those filling the positions, and the program identification number and organization code under which the position originally served; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 60. Provided that of the general fund appropriation for the department of education, one principal V position for King Kekaulike high school for fiscal year 1995-1996 and principal II position for Ewa Gentry elementary school for fiscal year 1996-1997 may be filled; provided further that these positions may be filled using existing educational officer positions; provided further that no educational officer shall suffer a reduction in either compensation or benefits as a result of reassignment; provided further that the department shall provide a report to the legislature detailing the principal positions filled, the previous capacity of those filling the positions, and the program identification number and organization code under which the position originally served; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 61. Provided that the department of education shall notify the legislature of the opening of school facilities; provided further that this section shall apply to newly constructed as well as previously constructed facilities; provided further that the department shall provide information as to the following:

- (1) Location and size of the facilities to be opened and the projected enrollment of and rationale for opening the additional facility;
- (2) The resources required to enable the opening of the facility, including necessary repair and maintenance, establishment of utilities and communications services, equipment, and other costs associated with the facility's opening by cost element and means of financing; and
- (3) The resources required to operate the facility by cost element;

provided further that this section shall apply to all facilities established for the prior five years; and provided further that this report shall be submitted to the legislature twenty days prior the convening of the 1996 and 1997 regular sessions.

SECTION 62. Provided that the department of education shall prepare a school-by-school expenditure report for the following six categories:

- (1) Administration;
- (2) Facilities and operations;
- (3) Teacher support and development;
- (4) Student support;
- (5) Instructional support; and
- (6) Classroom instruction;

provided further that for learning support centers and state and district administration, a similar report shall be prepared for the following two categories:

- (1) Administration, facilities and operations, and teacher support and development; and
- (2) Instructional and student support;

and provided further that the department of education shall submit this report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular session.

SECTION 63. Provided that in order to meet staffing requirements for the provision of services pursuant to the Felix v. Waihee consent decree, the department of education is authorized to establish and fill thirty-nine permanent behavioral management resource teachers; provided further that thirty of these positions shall be created through the reclassification of existing resource teacher positions; provided further that the remaining nine positions shall be funded through savings resulting from the early retirement incentive plan, Act 212, Session Laws of Hawaii 1994; and provided further that the establishment of these positions shall count toward the requirements of Act 272, Session Laws of Hawaii 1994, requiring the transfer of positions to learning support centers.

SECTION 64. Provided that for the department of education all funds shall be allocated as appropriated by the legislature; provided further that the department shall retain the right to transfer allocated resources to accommodate unforeseen circumstances including, but not limited to:

- (1) Payment of salaries;
- (2) Fulfillment of contractual obligations;
- (3) Matching requirements, or other requirements, associated with the securing and retention of federal funds; and
- (4) Addressing immediate emergency health and safety requirements;

provided further that the department of education, if necessary under the provisions of this section, shall transfer allocated resources from EDN 200, EDN 300, EDN 400, and EDN 500; and provided further that the department of education shall submit a report of all such transfers to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 65. Provided that the office of instructional services (OIS) of the department of education, by December 31, 1995, shall develop and implement standardized procedures for the periodic review and update of the department's program equipment list; provided further that:

- (1) The specifications and prices on the program equipment list shall be reviewed and updated every six months so that items on the list, as well as their prices, more accurately reflect the trends of the marketplace and current educational standards;
- (2) The office of instructional services shall work to ensure that prices on the list are uniform and appropriate to equipment used in the schools;

provided further that the department of education shall implement its procedures for fiscal year 1997; and provided further that the department shall submit a report of the standardization, development, and use of the program equipment list to the house committee on finance and the senate committee on ways and means no later than thirty days prior to the convening of the 1996 regular session.

SECTION 66. Provided that in order for the department of education to better implement reforms to the program equipment list, the office of instructional services shall work with the office of information and telecommunications services to construct a database system that includes, but is not limited to, the following information:

- (1) Program area;
- (2) Grade level of instruction;
- (3) Area in which the equipment is to be used;
- (4) General description of the equipment;
- (5) Exact specifications as to equipment design and use in instruction;
- (6) Appropriate quantities of equipment design and use in instruction;
- (7) The unit cost of each item; and
- (8) A listing of sources consulted in the calculating of the unit cost;

provided further that a series of standardized forms shall be developed by the office of instructional services for use in developing the information to be entered into the database; provided further that these forms shall serve as both a source of support to the database as well as a source of documentation for legislative oversight; provided further that the legislature shall be given access to the database in preparing its 1996-1997 supplemental budget; and provided further that the department shall submit a report concerning the development and use of the database to the house committee on finance and the senate committee on ways and means no later than twenty days prior to the convening of the 1996 regular session.

SECTION 67. Provided that of the general fund appropriation for the university of Hawaii, Manoa (UOH 100), the sum of \$1,150,770 for fiscal year 1995-1996 shall be used for the university laboratory school.

SECTION 68. Provided that of the general fund appropriation for the university of Hawaii, Manoa (UOH 100), the sum of \$173,466 for fiscal year 1995-1996 shall be expended for the university laboratory school cafeteria.

SECTION 69. Provided that of the general fund appropriation for university of Hawaii, Manoa (UOH 100), the college opportunities program appropriation for fiscal year 1995-1996 shall not exceed \$383,397; provided further that a study of the college opportunities program shall be completed in evaluating the organization's mission, program, and effectiveness; provided further that a commission shall be formed to conduct the study and that the composition of the commission shall be comprised of two members appointed by the vice president of student affairs and two members appointed by the chancellor of community colleges; provided further that any funds needed to conduct the study or fund the commission shall be drawn from the appropriation for the college opportunities program; and provided further that the commission shall provide a copy of the study to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 70. Provided that of the fiscal biennium 1995-1997 general fund appropriation for the university of Hawaii, Manoa (UOH 100), the sum of \$25,000 shall be used for the college of continuing education and community service for the purpose of operating the legislative internship program.

SECTION 71. Provided that of the general fund appropriation for the university of Hawaii, Manoa (UOH 100), such sums as may be necessary shall be reallocated to the university of Hawaii, systemwide support (UOH 900) for systemwide compliance with federal requirements on financial management.

SECTION 72. Provided that of the revolving fund appropriation for university of Hawaii, Manoa (UOH 100), the sum of \$500,000 for fiscal year 1995-1996 shall be expended by student housing services for the activation of computer data jacks in various residence halls; provided further that the funds shall not be reappropriated for any other purpose; and provided further that the university shall submit a detailed expenditure report to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 73. Provided that of the general fund appropriation for the university of Hawaii, at Hilo and west Hawaii (UOH 210), the sum of \$5,000 for fiscal year 1995-1996 and the sum of \$5,000 for fiscal year 1996-1997 may be expended at the discretion of the senior vice president and chancellor for the University of Hawaii, at Hilo and west Hawaii college.

SECTION 74. Provided that of the general fund appropriation for the university of Hawaii, systemwide support (UOH 900), the sum of \$5,000 for fiscal year 1995-1996 and the sum of \$5,000 for fiscal year 1996-1997 may be expended at the discretion of the board of regents.

SECTION 75. Provided that of the general fund appropriation for university of Hawaii, community college systemwide support (UOH 906), the sum of \$7,500 \$5,000<sup>1</sup> for fiscal year 1995-1996 and the sum of \$7,500 \$5,000<sup>1</sup> for fiscal year 1996-1997 may be expended at the discretion of the senior vice president and chancellor for community colleges.

SECTION 76. Provided that of the general fund appropriation for community colleges, systemwide support (UOH 906), a minimum of \$200,000 for fiscal year 1995-1996 and a minimum of \$200,000 for fiscal year 1996-1997 shall be used to cover operating budget shortages in instructional funds at the community college campuses; and provided further that systemwide support shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

## CULTURE AND RECREATION

SECTION 77. Provided that of the special fund appropriation for spectator events and shows - aloha stadium (AGS 889), the sum of \$5,000 for fiscal year 1995-1996 and the sum of \$5,000 for fiscal year 1996-1997 may be expended at the discretion of the stadium manager.

## PUBLIC SAFETY

SECTION 78. Provided that of the general fund appropriation for amelioration of physical disasters (DEF 110), the sum of \$1,000,000 for fiscal year 1995-1996 and the sum of \$1,000,000 for fiscal year 1996-1997 shall be used for relief from major disasters pursuant to section 127-11, Hawaii Revised Statutes.

INDIVIDUAL RIGHTS

SECTION 79. Provided that of the other fund appropriation for cable television (CCA 102), the department of commerce and consumer affairs is authorized to fund the establishment and filling of two positions, in fiscal years 1995-1996 and 1996-1997, exempt from the provisions of chapter 76 and 77, Hawaii Revised Statutes, to assist in regulating and monitoring the cable television industry.

SECTION 80. Provided that of the trust fund appropriation for professional, vocational and personal services (CCA 105), the department of commerce and consumer affairs is authorized to fund the establishment and filling of one real estate specialist position (25612E), in fiscal years 1995-1996 and 1996-1997, exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes, to assist in administration, enforcement, education, and update and research of laws and rules within the real estate commission and other assignment jurisdictions.

SECTION 81. Provided that of the general fund appropriation for insurance services (CCA 106), the department of commerce and consumer affairs is authorized to fund the establishment and filling of one insurance examiner III, exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes.

GOVERNMENT WIDE

SECTION 82. Provided that of the general fund appropriation for the office of the governor (GOV 100), the sum of \$14,031 for fiscal year 1995-1996 and the sum of \$14,031 for fiscal year 1996-1997 shall be used for the governor's contingency fund, which may be transferred to other programs and agencies and allotted, with the approval of the governor, for unexpected or unforeseen needs.

SECTION 83. Except as otherwise provided, the appropriation for office of the governor (GOV 100) shall be expended at the discretion of the governor.

SECTION 84. Provided that any reimbursement of the sums expended from the general fund appropriation for the office of the lieutenant governor (LTG 100), for the purpose of conducting any county-associated elections in fiscal biennium 1995-1997, shall be deposited into the general fund.

SECTION 85. Except as otherwise provided, the appropriation for office of the lieutenant governor (LTG 100) shall be expended at the discretion of the lieutenant governor.

SECTION 86. Provided that of the general fund appropriation for other policy development and coordination (GOV 102), the sum of \$843,760 for fiscal year 1995-1996 and the sum of \$845,534 for fiscal year 1996-1997 shall be expended on the following:

|                             | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|-----------------------------|---------------------|---------------------|
| Low input sustainable yield | \$ 50,000           | \$ 50,000           |
| Anthurium research          | \$ 88,000           | \$ 88,000           |

|  | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|--|---------------------|---------------------|
| Yellow sugarcane aphid research                  | \$ 66,000           | \$ 66,000           |
| Pesticide education program                      | \$ 50,000           | \$ 50,000           |
| Pesticide testing and registration               | \$300,000           | \$300,000           |
| Livestock waste management                       | \$100,000           | \$100,000           |
| State farm fair                                  | \$ 50,000           | \$ 50,000           |
| Fruit fly post harvest treatment<br>and research | \$139,760           | \$141,534           |

provided further that the governor's agriculture coordinating committee shall be the expending agency; provided further that any expenditures shall be itemized in a report and submitted to the legislature; provided further that the governor's agriculture coordinating committee shall submit a report which shall include, but not be limited to, the progress of research for each specific commodity that is funded and recommendations for funding in future years; and provided further that the aforementioned reports shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 87. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$186,425,742 for fiscal year 1995-1996 and the sum of \$195,373,864 for fiscal year 1996-1997 shall be used for only the following purposes:

| <u>Purpose</u>                              | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---|---------------------|---------------------|
| Health fund premiums active<br>and retirees | \$180,831,125       | \$189,779,247       |
| Witness fees & related expenses             | \$ 2,552,262        | \$ 2,552,262        |
| Court appointed counsel                     | \$ 3,042,355        | \$ 3,042,355        |

provided that the funds shall not be transferred for any other purpose; and provided further that the department shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 88. In the event that expenses incurred for section 621-9, Hawaii Revised Statutes (witness fees), and section 802-5, Hawaii Revised Statutes (court appointed private counsel for indigents), exceed the general fund appropriations for program planning, analysis and budgeting program (BUF 101) for fiscal year 1995-1996 and for fiscal year 1996-1997 for the purposes stated therein, the director of finance, with the approval of the governor, is hereby authorized to utilize savings determined to be available by the governor, from the department of budget and finance for the purpose of meeting deficits incurred by the department of budget and finance; and provided further that the department of budget and finance shall submit a detailed expenditure report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 89. Provided that of the general fund appropriation for supporting services-revenue collection (TAX 107), the sum of \$2,540,046 for fiscal year 1995-1996 shall be used only for the purposes required for the redesign of the new integrated tax information management system; provided further that any unexpended revenues shall be lapsed to the state general fund; and provided further that the department of taxation shall submit a progress and expenditure report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 90. With the approval of the governor, agencies that use appropriations authorized in part II of this Act for audit services, may delegate that responsibility and transfer funds authorized for that purpose to the internal post audit program (AGS 104), when it is determined by such agencies that it is advantageous to do so.

SECTION 91. Provided that of the general fund appropriation for financial administration program (BUF 115), the sum of \$421,861,273 for fiscal year 1995-1996 and the sum of \$429,400,049 for fiscal year 1996-1997 shall be used for only the following purposes:

| <u>Purpose</u>            | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|---------------------------|---------------------|---------------------|
| Interest and Principal on |                     |                     |
| General Obligation Bonds  | \$420,861,273       | \$426,990,049       |
| Bond Underwriter's Fee    | \$ 1,000,000        | \$ 2,410,000        |

provided further that the funds shall not be transferred for any other purpose; and provided further that the department shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 92. Provided that of the general fund appropriation for financial administration division (BUF 115), the sum of \$1,350,000 for fiscal year 1995-1996 and the sum of \$1,350,000 for fiscal year 1996-1997 shall be used to meet the requirements of the uniform disposition of unclaimed property program pursuant to chapter 523A, Hawaii Revised Statutes; and provided further that the department of budget and finance shall submit an itemized expenditure report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 93. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (HRD 102), the sum of \$19,875,709 for fiscal year 1995-1996 and the sum of \$21,698,631 for fiscal year 1996-1997 shall be expended to cover workers' compensation claims; and provided further that the department of human resources development shall submit an itemized expenditure report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 94. Provided that, notwithstanding any appropriation or position ceiling, the governor may transfer positions and funds between existing programs of the state government to work force attraction, selection, classification and effectiveness (HRD 102), for the purpose of implementing a centralized workers' compensation program; and provided further that summary reports shall be submitted to the legislature which detail all transfers as of December 31 and June 30 for each fiscal year.

SECTION 95. Provided that of the general fund appropriation for retirement (BUF 141), the sum of \$267,823,914 for fiscal year 1995-1996 and the sum of \$325,772,985 for fiscal year 1996-1997 shall be used for only the following purposes:

| <u>Purpose</u>         | <u>FY 1995-1996</u> | <u>FY 1996-1997</u> |
|------------------------|---------------------|---------------------|
| Pension Accumulation   | \$166,342,240       | \$223,029,280       |
| Minimum Pension        | \$ 20,365           | \$ 19,555           |
| Social Security and    |                     |                     |
| Medicare Contributions | \$101,461,309       | \$102,724,150       |



provided further that the funds shall not be transferred for any other purpose; and provided further that the department shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 96. Provided that the department of accounting and general services shall submit an updated listing of all leases budgeted for and centralized within office leasing (AGS 223), provided further that this listing shall include, but not be limited to, a breakdown, by department and agency, of all individual leases, including the lessor, square footage, effective dates of each lease, the amount budgeted for each lease per fiscal year, the actual rent paid, and the address of each lease; provided further that all expenditures which exceed amounts budgeted for office leasing shall be identified; and provided further that this report shall be provided to the legislature through the governor during the 1996 and 1997 regular sessions.

SECTION 97. With the approval of the governor, expending agencies that use appropriations authorized in part II of this Act for repair and alterations, may delegate responsibility and transfer funds to construction (AGS 221) for the implementation of such repair and alterations, when it is determined by such agencies that it is advantageous to do so.

SECTION 98. Provided that of the general fund appropriation to the county of Maui (SUB 401), the sum of \$200,000 for fiscal year 1995-1996 shall be used to operate a Maui community culture and art center.

#### PART IV. CAPITAL IMPROVEMENTS PROGRAM PROJECTS

SECTION 99. CAPITAL IMPROVEMENTS PROGRAM PROJECTS AUTHORIZED. The sums of money appropriated or authorized in part II of this Act for the capital improvements program shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient for implementation; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this Part are in thousands of dollars.)

##### CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|------------------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |                  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |

##### A. ECONOMIC DEVELOPMENT

##### AGR141 - AGRICULTURAL RESOURCE MANAGEMENT

1. HA0001 DRAINAGE IMPROVEMENTS, WAIMANALO IRRIGATION SYSTEM, OAHU

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO CONTROL FLOODING WITHIN ABANDONED DITCH AND FLUME EASEMENTS OF THE IRRIGATION SYSTEM.   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 50    |                     | 50    |
|          |             | CONSTRUCTION   |                  |                           | 300   |                     | 500   |
|          |             | TOTAL FUNDING  | AGR              |                           | 350C  |                     | 550C  |
| 2.       | W00003      | MAUNAWILI DITCH IMPROVEMENTS, WAIMANALO IRRIGATION SYSTEM, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO REHABILITATE DITCH INTAKES, REPLACE WITH PIPES AND SIPHONS CROSSING FORMER DITCH ALIGNMENTS TOGETHER WITH APPURTENANT FACILITIES.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 10    |                     | 15    |
|          |             | DESIGN   |                  |                           | 50    |                     | 75    |
|          |             | CONSTRUCTION   |                  |                           | 600   |                     | 600   |
|          |             | TOTAL FUNDING  | AGR              |                           | 660C  |                     | 690C  |
| 3.       | 920008      | KUALAPUU RESERVOIR SECURITY FENCING, MOLOKAI IRRIGATION SYSTEM, MOLOKAI  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR SECURITY FENCING TOGETHER WITH APPURTENANT WORKS FOR THE RESERVOIR PERIMETER INCLUDING REMOVAL AND DISPOSAL OF EXISTING FENCING.   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 50    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 250   |                     |       |
|          |             | TOTAL FUNDING  | AGR              |                           | 300C  |                     | C     |
| 4.       | 950001      | KUALAPUU RESERVOIR IMPROVEMENTS, MOLOKAI IRRIGATION SYSTEM, MOLOKAI  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A RESERVOIR OUTLET TO REPLACE AN EXISTING OUTLET AND STRAINER STATION TOGETHER WITH OTHER NECESSARY IMPROVEMENTS. PROJECT TO INCLUDE APPURTENANT WORKS WHICH MAY BECOME APPARENT UPON LOWERING THE WATER LEVEL AND INSPECTING EXISTING OUTLET. PHASE II FILTRATION AND CHLORINATION STATION ADDED TO OUTLET END OF RESERVOIR. |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 10    |                     |       |
|          |             | DESIGN   |                  |                           | 25    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 205   |                     | 150   |
|          |             | EQUIPMENT  |                  |                           | 15    |                     | 10    |
|          |             | TOTAL FUNDING  | AGR              |                           | 255C  |                     | 160C  |

## AGR192 - GENERAL ADMINISTRATION FOR AGR

## 5. KAMUELA COOLING PLANT, HAWAII

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS AT THE KAMUELA COOLING PLANT.

PLANS

1

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.  | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|---|-------------|--|------------------|---------------------------|--------|---------------------|-------|
|   |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|   |             | DESIGN   |                  |                           | 1      |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 47     |                     |       |
|   |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 50C    |                     | C     |
| <b>BED120 - ENERGY DEVELOPMENT AND MANAGEMENT</b> |             |  |                  |                           |        |                     |       |
| 6.  |             | NELH12 HGP-A GEOTHERMAL WELL PLUG AND ABANDONMENT, HAWAII  |                  |                           |        |                     |       |
|   |             | PLANS, DESIGN, AND CONSTRUCTION FOR PLUGGING AND ABANDONMENT OF THE HGP-A WELL AT THE PUNA RESEARCH FACILITY TO ISOLATE THE GEOTHERMAL RESERVOIR AND ELIMINATE POTENTIAL RISKS OF HYDROGEN SULPHIDE OR SILICA CONTAMINANTS COMMUNICATING WITH THE SURROUNDING COMMUNITY OF PUNA. |                  |                           |        |                     |       |
|   |             | PLANS  |                  |                           | 10     |                     |       |
|   |             | DESIGN   |                  |                           | 10     |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 270    |                     |       |
|   |             | TOTAL FUNDING  | BED              |                           | 290C   |                     | C     |
| <b>LNR141 - WATER AND LAND DEVELOPMENT</b>        |             |  |                  |                           |        |                     |       |
| 7. G10  |             | HANAPEPE WELL DEVELOPMENT, TRANSMISSION AND APPURTENANCES, KAUAI   |                  |                           |        |                     |       |
|   |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF THE HANAPEPE WELL. PROJECT TO INCLUDE PUMP, CONTROLS, CONNECTING PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.   |                  |                           |        |                     |       |
|   |             | PLANS  |                  |                           | 48     |                     |       |
|   |             | LAND   |                  |                           | 1      |                     |       |
|   |             | DESIGN   |                  |                           | 145    |                     |       |
|   |             | CONSTRUCTION   |                  |                           |        | 1,447               |       |
|   |             | TOTAL FUNDING  | LNR              |                           | 194C   | 1,447C              |       |
| 8. G75  |             | HUALALAI WELL DEVELOPMENT AND SUPPORT FACILITIES, HAWAII   |                  |                           |        |                     |       |
|   |             | LAND ACQUISITION AND CONSTRUCTION FOR PUMP, CONTROLS, CONNECTING PIPELINE AND OTHER INCIDENTAL AND RELATED WORK.   |                  |                           |        |                     |       |
|   |             | LAND   |                  |                           | 1      |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 4,420  |                     |       |
|   |             | TOTAL FUNDING  | LNR              |                           | 4,421C |                     | C     |
| 9. G76  |             | HONOKAA EXPLORATORY WELL IMPROVEMENTS, HAWAII  |                  |                           |        |                     |       |
|   |             | CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK, TO REPLACE THE FAILED EXPLORATORY WELL.  |                  |                           |        |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 200    |                     |       |
|   |             | TOTAL FUNDING  | LNR              |                           | 200C   |                     | C     |
| 10. J23   |             | KAPAKAHI WELL DEVELOPMENT AND APPURTENANCES, OAHU  |                  |                           |        |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | CONSTRUCTION FOR PUMPS, CONTROLS, CONNECTING PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.   |                  |                           |       |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 758   |                     |       |
|          |             | TOTAL FUNDING   | LNR              |                           | 758C  |                     | C     |
| 11.      | J36         | LEEWARD POTABLE WATER WELL, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, AND DESIGN FOR A POTABLE WATER WELL AND ITS DEVELOPMENT, TO INCLUDE CASING INSTALLATION, PUMP TESTING, PUMP CONTROLS, AND OTHER INCIDENTAL AND RELATED WORK.                                   |                  |                           |       |                     |       |
|          |             | PLANS   |                  |                           | 195   |                     |       |
|          |             | LAND  |                  |                           | 97    |                     |       |
|          |             | DESIGN  |                  |                           | 292   |                     |       |
|          |             | TOTAL FUNDING   | LNR              |                           | 584C  |                     | C     |
| 12.      | J39         | NORTH KONA WELL SITES PLANNING AND LAND ACQUISITION, HAWAII   |                  |                           |       |                     |       |
|          |             | PLANS AND LAND ACQUISITION FOR WATER WELLS IN NORTH KONA.   |                  |                           |       |                     |       |
|          |             | PLANS   |                  |                           | 195   |                     |       |
|          |             | LAND  |                  |                           | 1,000 |                     |       |
|          |             | TOTAL FUNDING   | LNR              |                           | 598C  |                     | C     |
|          |             |   | LNR              |                           | 597W  |                     | W     |
| 13.      | G21B        | HINA LANI DRIVE WATER TRANSMISSION LINE AND RESERVOIR, HAWAII   |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A WATER TRANSMISSION PIPELINE, RESERVOIR AND OTHER INCIDENTAL AND RELATED WORK IN NORTH KONA, IN THE VICINITY OF HINA LANI DRIVE.                                 |                  |                           |       |                     |       |
|          |             | PLANS   |                  |                           | 48    |                     |       |
|          |             | LAND  |                  |                           | 1     |                     |       |
|          |             | DESIGN  |                  |                           | 95    |                     |       |
|          |             | CONSTRUCTION  |                  |                           |       |                     | 955   |
|          |             | TOTAL FUNDING   | LNR              |                           | 144B  |                     | 955B  |
| 14.      | G21C        | PALANI ROAD WATER TRANSMISSION LINE, PHASE I, HAWAII  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR A WATER TRANSMISSION LINE, PHASE I, IN NORTH KONA. PROJECT TO BE CONSTRUCTED IN THE VICINITY OF PALANI ROAD TO INCLUDE TRANSMISSION PIPELINE AND OTHER INCIDENTAL AND RELATED WORK. |                  |                           |       |                     |       |
|          |             | PLANS   |                  |                           | 38    |                     |       |
|          |             | DESIGN  |                  |                           | 76    |                     |       |
|          |             | CONSTRUCTION  |                  |                           |       |                     | 954   |
|          |             | TOTAL FUNDING   | LNR              |                           | 114W  |                     | 954W  |
| 15.      | G25B        | KEOPU WELL DEVELOPMENT AND SUPPORT FACILITIES, HAWAII   |                  |                           |       |                     |       |
|          |             | PLANS AND DESIGN FOR A RESERVOIR, PUMP, CONTROLS, CONNECTING PIPELINE, AND OTHER  |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |        |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|--------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F  |
|          |             | INCIDENTAL AND RELATED WORK.   |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 166   |                     |        |
|          |             | DESIGN   |                  |                           |       |                     | 332    |
|          |             | TOTAL FUNDING  | LNR              |                           | 166C  |                     | 332C   |
| 16.      | G25C        | WAIMEA EXPLORATORY WELL, HAWAII  |                  |                           |       |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.     |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 68    |                     |        |
|          |             | DESIGN   |                  |                           | 130   |                     |        |
|          |             | CONSTRUCTION   |                  |                           |       |                     | 1,303  |
|          |             | TOTAL FUNDING  | LNR              |                           | 198C  |                     | 1,303C |
| 17.      | G43B        | PEARL HARBOR WELLS, PHASE I, EXPLORATORY WELL AND SITE ACQUISITION, OAHU   |                  |                           |       |                     |        |
|          |             | PLANS, LAND ACQUISITION, AND DESIGN FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK. |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 195   |                     |        |
|          |             | LAND   |                  |                           | 390   |                     |        |
|          |             | DESIGN   |                  |                           | 293   |                     |        |
|          |             | TOTAL FUNDING  | LNR              |                           | 878C  |                     | C      |
| 18.      | G43C        | KAHUKU EXPLORATORY WELL, OAHU  |                  |                           |       |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.     |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 48    |                     |        |
|          |             | DESIGN   |                  |                           | 95    |                     |        |
|          |             | CONSTRUCTION   |                  |                           |       |                     | 955    |
|          |             | TOTAL FUNDING  | LNR              |                           | 143C  |                     | 955C   |
| 19.      | G43D        | WINDWARD EXPLORATORY WELL, OAHU  |                  |                           |       |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.     |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 48    |                     |        |
|          |             | DESIGN   |                  |                           | 95    |                     |        |
|          |             | CONSTRUCTION   |                  |                           |       |                     | 955    |
|          |             | TOTAL FUNDING  | LNR              |                           | 143C  |                     | 955C   |
| 20.      | G43E        | WAIAWA EXPLORATORY WELL, OAHU  |                  |                           |       |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.     |                  |                           |       |                     |        |
|          |             | PLANS  |                  |                           | 48    |                     |        |
|          |             | DESIGN   |                  |                           | 95    |                     |        |
|          |             | CONSTRUCTION   |                  |                           |       |                     | 955    |
|          |             | TOTAL FUNDING  | LNR              |                           | 143C  |                     | 955C   |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |        |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|--------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
| 21.      | 77808       | KEAHOLE RESERVOIR, HAWAII   |                  |                           |        |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR A WATER RESERVOIR, PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK TO IMPROVE THE NORTH KONA WATER SYSTEM NEAR KEAHOLE AIRPORT.   |                  |                           |        |                     |        |
|          |             | PLANS   |                  |                           | 63     |                     |        |
|          |             | DESIGN  |                  |                           | 125    |                     |        |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 1,351  |
|          |             | TOTAL FUNDING   | LNR              |                           | 188B   |                     | 1,351B |
| 22.      | 920018      | PUU ANAHULU WATER SYSTEM, HAWAII  |                  |                           |        |                     |        |
|          |             | CONSTRUCTION FOR AN EXPLORATORY WELL, INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER INCIDENTAL AND RELATED WORK.   |                  |                           |        |                     |        |
|          |             | CONSTRUCTION  |                  |                           | 472    |                     |        |
|          |             | TOTAL FUNDING   | LNR              |                           | 472C   |                     | C      |
| 23.      |             | WAIMANALO WASTEWATER TREATMENT PLANT IMPROVEMENTS, OAHU   |                  |                           |        |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR A BACKWASH FILTER STRUCTURE AND FILTER CELLS, CHLORINE MIXING AND CONTACT CHAMBER, AND DISSOLVED AIR FLOTATION THICKENER, INCLUDING ALL STRUCTURAL AND MECHANICAL WORK.   |                  |                           |        |                     |        |
|          |             | PLANS   |                  |                           | 1      |                     |        |
|          |             | DESIGN  |                  |                           | 184    |                     |        |
|          |             | CONSTRUCTION  |                  |                           | 1,850  |                     |        |
|          |             | TOTAL FUNDING   | LNR              |                           | 2,035C |                     | C      |
| 24.      | G44B        | LIHUE/HANAMAULU WELL #3, KAUAI  |                  |                           |        |                     |        |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR PUMP, CONTROLS, CONNECTING PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.   |                  |                           |        |                     |        |
|          |             | PLANS   |                  |                           | 38     |                     |        |
|          |             | DESIGN  |                  |                           | 75     |                     |        |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 760    |
|          |             | TOTAL FUNDING   | LNR              |                           | 113C   |                     | 760C   |
| 25.      |             | UPPER PALOLO VALLEY WATER SYSTEM IMPROVEMENTS, OAHU   |                  |                           |        |                     |        |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INFRASTRUCTURE IMPROVEMENTS FOR THE UPPER PALOLO VALLEY WATER SYSTEM. PROJECT TO INCLUDE ACQUISITION OF LAND FOR ACCESS AND UTILITY EASEMENTS, PIPING, TANK AND CONTROLS, PUMPS, AND OTHER RELATED IMPROVEMENTS. |                  |                           |        |                     |        |
|          |             | LAND  |                  |                           | 50     |                     |        |
|          |             | DESIGN  |                  |                           | 10     |                     |        |
|          |             | CONSTRUCTION  |                  |                           | 60     |                     |        |
|          |             | TOTAL FUNDING   | LNR              |                           | 120C   |                     | C      |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|------------------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |                  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |

## B. EMPLOYMENT

## HMS802 - VOCATIONAL REHABILITATION

1. 802-3 HOOPONO AUDITORIUM, AIR CONDITIONING, OAHU

DESIGN AND CONSTRUCTION FOR AIR  
CONDITIONING IMPROVEMENTS TO THE  
HOOPONO AUDITORIUM AND OTHER RELATED  
WORK.

|               |     |  |   |      |
|---------------|-----|--|---|------|
| DESIGN        |     |  |   | 14   |
| CONSTRUCTION  |     |  |   | 98   |
| TOTAL FUNDING | HMS |  | N | 112N |

2. 802-4 HOOPONO BUILDING RENOVATIONS, OAHU

DESIGN AND CONSTRUCTION FOR THE  
HOOPONO BUILDING. PROJECT SHALL INCLUDE  
THE REMOVAL OF ARCHITECTURAL BARRIERS  
AND OTHER RELATED IMPROVEMENTS.

|               |     |  |     |   |
|---------------|-----|--|-----|---|
| DESIGN        |     |  | 12  |   |
| CONSTRUCTION  |     |  | 75  |   |
| TOTAL FUNDING | HMS |  | 87N | N |

## LBR903 - OFFICE OF COMMUNITY SERVICES

3. OPPORTUNITIES FOR THE RETARDED TRAINING FACILITIES, OAHU

PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION, AND EQUIPMENT FOR THE  
RENOVATION, IMPROVEMENT, AND/OR  
EXPANSION TO THE OPPORTUNITIES FOR THE  
RETARDED TRAINING FACILITY. THIS PROJECT  
QUALIFIES AS A GRANT, PURSUANT TO  
CHAPTER 42D, HRS.

|               |     |  |        |   |
|---------------|-----|--|--------|---|
| PLANS         |     |  | 1      |   |
| LAND          |     |  | 1      |   |
| DESIGN        |     |  | 1      |   |
| CONSTRUCTION  |     |  | 4,996  |   |
| EQUIPMENT     |     |  | 1      |   |
| TOTAL FUNDING | LBR |  | 5,000C | C |

## C. TRANSPORTATION FACILITIES

## TRN102 - HONOLULU INTERNATIONAL AIRPORT

1. A16 HIA INTERNATIONAL TERMINAL COMPLEX, OAHU

DESIGN AND CONSTRUCTION FOR THE ITB  
COMPLEX INCLUDING BUILDINGS, APRONS,  
TAXIWAYS, ROADWAYS, PARKING, FURNITURE,  
LANDSCAPING, GATES, LOADING BRIDGES, AIR  
CARGO/PARKING/OFFICE/TENANT LEASE SPACE  
COMPLEX, FUEL STORAGE, RELOCATION OF  
EXISTING TENANTS, AND OTHER  
MISCELLANEOUS IMPROVEMENTS INCLUDING  
INTERIM FACILITIES. THIS PROJECT IS DEEMED  
NECESSARY TO QUALIFY FOR FEDERAL AID  
FINANCING AND/OR REIMBURSEMENT.

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | DESIGN  |                  | 490                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 5,873                     |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 3,395B                    |       |                     | B     |
|          |             |   | TRN              | 968E                      |       |                     | E     |
|          |             |   | TRN              | 2,000N                    |       |                     | N     |
| 2.       | A23         | HIA AIRFIELD IMPROVEMENTS, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO AIRFIELD FACILITIES INCLUDING TAXIWAYS, RUNWAYS, SIGNS, ENGINE RUN UP PAD, SERVICE ROADS, SAFETY AREAS, LIGHTING SYSTEMS, EMERGENCY GENERATOR, DRAINAGE STRUCTURES, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 978                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 16,537                    |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 8,905B                    |       |                     | B     |
|          |             |   | TRN              | 2,610E                    |       |                     | E     |
|          |             |   | TRN              | 6,000N                    |       |                     | N     |
| 3.       | A30         | ELECTRICAL SYSTEM IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE MODIFICATION OF ELECTRICAL SYSTEMS AT HONOLULU INTERNATIONAL AIRPORT. PROJECT TO INCLUDE SWITCH GEARS, DISTRIBUTION SYSTEMS, TRANSFORMER STATIONS, EMERGENCY GENERATOR SYSTEM, AND OTHER RELATED FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 596                       |       |                     |       |
|          |             | CONSTRUCTION  |                  |                           |       | 11,740              |       |
|          |             | TOTAL FUNDING   | TRN              | 596B                      |       | 2,395B              |       |
|          |             |   | TRN              | E                         |       | 1,695E              |       |
|          |             |   | TRN              | N                         |       | 7,650N              |       |
| 4.       | A43         | SERVICE SUPPORT FACILITIES AT HIA, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR BUILDINGS, ROADS, PARKING, UTILITIES, APRONS, LANDSCAPING, TELEPHONE, NON-POTABLE WATER, LEASE LOTS, TAXIWAYS, AIR CARGO, AIRCRAFT MAINTENANCE, GENERAL AVIATION, HELICOPTER, AIR TAXI, AIRCRAFT FUELING, WASTE DISPOSAL, DRAINAGE IMPROVEMENTS, HANGARS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 72                        |       |                     |       |
|          |             | CONSTRUCTION  |                  | 1,155                     |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 1,035B                    |       |                     | B     |
|          |             |   | TRN              | 192E                      |       |                     | E     |



CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
|          |             |               |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |

TRN131 - KAHULUI AIRPORT

5. D08 SERVICE SUPPORT FACILITIES AT KAHULUI AIRPORT, MAUI

DESIGN AND CONSTRUCTION FOR BUILDINGS, ROADS, PARKING, APRONS, TAXIWAYS, LEASE LOTS, CARGO TERMINAL, HELIPADS, AIRLINE MAINTENANCE FACILITIES, FUEL STORAGE SITE, GENERAL AVIATION FACILITIES, UTILITIES, FLIGHT KITCHEN, ARFF FACILITIES, AIR TOUR FACILITIES, PARK, LANDSCAPING AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |  |   |     |
|---------------|-----|--|---|-----|
| DESIGN        |     |  |   | 9   |
| CONSTRUCTION  |     |  |   | 51  |
| TOTAL FUNDING | TRN |  | B | 60B |

6. D10 KAHULUI AIRFIELD IMPROVEMENTS, MAUI

DESIGN AND CONSTRUCTION FOR EXTENSION OF RUNWAY AND TAXIWAYS, INCLUDING SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, SERVICE ROADS, AIRCRAFT APRONS, PARKING, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |  |         |   |
|---------------|-----|--|---------|---|
| DESIGN        |     |  | 884     |   |
| CONSTRUCTION  |     |  | 20,405  |   |
| TOTAL FUNDING | TRN |  | 11,404B | B |
|               | TRN |  | 2,885E  | E |
|               | TRN |  | 7,000N  | N |

TRN161 - LIHUE AIRPORT

7. E03 LIHUE AIRPORT COMPLEX, KAUAI

DESIGN AND CONSTRUCTION FOR AIRPORT FACILITIES, INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, AIRCRAFT APRONS, TAXIWAYS, RUNWAYS, CARGO TERMINAL, LEASE LOTS, HANGARS, ALTERATIONS TO EXISTING FACILITIES, HELIPORT FACILITIES, OTHER MISCELLANEOUS IMPROVEMENTS, RELOCATION OF TENANTS AND MODIFICATIONS TO EXISTING FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |  |      |   |
|---------------|-----|--|------|---|
| DESIGN        |     |  | 42   |   |
| CONSTRUCTION  |     |  | 437  |   |
| TOTAL FUNDING | TRN |  | 479B | B |

TRN195 - AIRPORTS ADMINISTRATION

8. F04 AIRPORT PLANNING, STATEWIDE

CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | PLANS FOR PROVIDING BASIC DATA AND INFORMATION FOR PROPER PLANNING, PRELIMINARY DESIGNS, SPECIAL ENGINEERING, ARCHITECTURAL, ENVIRONMENTAL, NOISE COMPATIBILITY, SPECIAL STUDIES FOR STATEWIDE SYSTEM OF AIRPORTS, AND CONTINUE REVIEW AND UPDATING MASTER PLANS AND NOISE COMPATIBILITY PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.     |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 1,582                     |       | 567                 |       |
|          |             | TOTAL FUNDING   | TRN              | 1,102B                    |       | 467B                |       |
|          |             |   | TRN              | 480N                      |       | 100N                |       |
| 9.       | F06         | LAND ACQUISITION, STATEWIDE   |                  |                           |       |                     |       |
|          |             | LAND ACQUISITION FOR AIRPORT FACILITIES AND LEASE RIGHTS FOR STATEWIDE AIRPORTS.  |                  |                           |       |                     |       |
|          |             | LAND  |                  | 90                        |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 90B                       |       |                     | B     |
| 10.      | F08         | AIRPORT IMPROVEMENTS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS AT VARIOUS AIRPORTS. IMPROVEMENTS FOR SAFETY, CERTIFICATION REQUIREMENTS AND OPERATIONAL EFFICIENCY, INCLUDING FIRE ALARM, FLIGHT INFORMATION, SECURITY, COMMUNICATIONS, ENERGY MONITORING, WEATHER OBSERVING, AND AIRPORT OPERATIONS SYSTEMS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 193                       |       | 290                 |       |
|          |             | CONSTRUCTION  |                  | 1,063                     |       | 1,354               |       |
|          |             | TOTAL FUNDING   | TRN              | 1,063B                    |       | 1,354B              |       |
|          |             |   | TRN              | 193E                      |       | 290E                |       |
| 11.      |             | AIRPORTS DIVISION CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.  |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 1,198                     |       | 1,198               |       |
|          |             | DESIGN  |                  | 1                         |       | 1                   |       |
|          |             | CONSTRUCTION  |                  | 1                         |       | 1                   |       |
|          |             | TOTAL FUNDING   | TRN              | 900B                      |       | 900B                |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
|          |             |               |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             |               | TRN              |                           | 300E  |                     | 300E  |

## TRN301 - HONOLULU HARBOR

12. J02 IMPROVEMENTS TO FACILITIES AT PIERS 19 TO 34, HONOLULU HARBOR, OAHU

CONSTRUCTION FOR IMPROVEMENTS TO PIERS, SHEDS, YARDS, AND OTHER RELATED IMPROVEMENTS.

|               |     |   |        |
|---------------|-----|---|--------|
| CONSTRUCTION  |     |   | 1,928  |
| TOTAL FUNDING | TRN | E | 1,928E |

## TRN303 - BARBERS POINT HARBOR

13. J10 BARBERS POINT HARBOR DEEPENING, OAHU

PLANS FOR MODIFICATIONS AND DEEPENING OF HARBOR ENTRANCE CHANNEL, TURNING BASIN AND BERTHING AREAS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |      |      |
|---------------|-----|------|------|
| PLANS         |     | 470  | 470  |
| TOTAL FUNDING | TRN | 220B | 220B |
|               | TRN | 250N | 250N |

## TRN311 - HILO HARBOR

14. L10 HILO HARBOR IMPROVEMENTS, HAWAII

LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS AT HILO HARBOR INCLUDING PIERS, YARDS, SHEDS, UTILITIES, ROADWAYS, AND OTHER RELATED IMPROVEMENTS.

|               |     |      |      |
|---------------|-----|------|------|
| LAND          |     | 48   |      |
| DESIGN        |     | 96   |      |
| CONSTRUCTION  |     | 478  | 711  |
| TOTAL FUNDING | TRN | 622B | 711B |

## TRN313 - KAWAIHAE HARBOR

15. L05 BARGE TERMINAL IMPROVEMENTS AT KAWAIHAE HARBOR, HAWAII

DESIGN FOR IMPROVEMENTS TO BARGE TERMINAL PIER, SHED, YARD, UTILITIES, ROADWAYS AND OTHER RELATED IMPROVEMENTS.

|               |     |   |      |
|---------------|-----|---|------|
| DESIGN        |     |   | 976  |
| TOTAL FUNDING | TRN | B | 976B |

## TRN331 - KAHULUI HARBOR

16. M01 KAHULUI HARBOR IMPROVEMENTS, MAUI

DESIGN AND CONSTRUCTION FOR CARGO YARD DRAINAGE, LIGHTING, PAVING, AND OTHER RELATED IMPROVEMENTS.

|        |  |     |  |
|--------|--|-----|--|
| DESIGN |  | 193 |  |
|--------|--|-----|--|

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                        | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|---------------------------------|-------------|---|------------------|---------------------------|--------|---------------------|-------|
|                                 |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|                                 |             | CONSTRUCTION  |                  |                           |        | 1,447               |       |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 193B   |                     | B     |
|                                 |             |   | TRN              |                           | E      | 1,447E              |       |
| 17.                             | M02         | KAHULUI HARBOR DEEPENING, MAUI  |                  |                           |        |                     |       |
|                                 |             | PLANS FOR THE DEEPENING OF TURNING BASIN AND BERTHING AREA AT KAHULUI HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |       |
|                                 |             | PLANS   |                  |                           | 195    |                     | 195   |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 95B    |                     | 95B   |
|                                 |             |   | TRN              |                           | 100N   |                     | 100N  |
| 18.                             | M09         | BARGE TERMINAL IMPROVEMENTS AT KAHULUI HARBOR, MAUI   |                  |                           |        |                     |       |
|                                 |             | DESIGN AND CONSTRUCTION FOR PIER, YARD, SHED, AND OTHER IMPROVEMENTS TO BARGE TERMINAL FACILITIES.  |                  |                           |        |                     |       |
|                                 |             | DESIGN  |                  |                           | 195    |                     |       |
|                                 |             | CONSTRUCTION  |                  |                           | 3,891  |                     |       |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 195B   |                     | B     |
|                                 |             |   | TRN              |                           | 3,891E |                     | E     |
| TRN361 - NAWILIWILI HARBOR      |             |   |                  |                           |        |                     |       |
| 19.                             | K06         | NAWILIWILI HARBOR IMPROVEMENTS, KAUAI   |                  |                           |        |                     |       |
|                                 |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO CARGO HANDLING AREAS INCLUDING ROADWAY REALIGNMENT, WATER SYSTEM UPGRADE, AND OTHER RELATED IMPROVEMENTS.  |                  |                           |        |                     |       |
|                                 |             | LAND  |                  |                           | 492    |                     |       |
|                                 |             | DESIGN  |                  |                           | 492    |                     |       |
|                                 |             | CONSTRUCTION  |                  |                           | 984    |                     | 1,935 |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 1,968B |                     | B     |
|                                 |             |   | TRN              |                           | E      | 1,935E              |       |
| TRN395 - HARBORS ADMINISTRATION |             |   |                  |                           |        |                     |       |
| 20.                             | I01         | STATEWIDE HARBOR PLANNING, STATEWIDE  |                  |                           |        |                     |       |
|                                 |             | PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.  |                  |                           |        |                     |       |
|                                 |             | PLANS   |                  |                           | 243    |                     | 243   |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 243B   |                     | 243B  |
| 21.                             | I02         | STATEWIDE WAVE AND CURRENT MONITORING, STATEWIDE  |                  |                           |        |                     |       |
|                                 |             | PLANS FOR MONITORING OF WATER AND CURRENTS AT VARIOUS STATE COMMERCIAL HARBORS.   |                  |                           |        |                     |       |
|                                 |             | PLANS   |                  |                           | 376    |                     |       |
|                                 |             | TOTAL FUNDING   | TRN              |                           | 376B   |                     | B     |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                      | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |        |
|-------------------------------|-------------|---|------------------|---------------------------|--------|---------------------|--------|
|                               |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
| 22.                           | I03         | MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT NEIGHBOR ISLAND PORTS, STATEWIDE  |                  |                           |        |                     |        |
|                               |             | DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS, AND OTHER RELATED FACILITIES.   |                  |                           |        |                     |        |
|                               |             | DESIGN  |                  |                           | 71     |                     | 71     |
|                               |             | CONSTRUCTION  |                  |                           | 190    |                     | 190    |
|                               |             | TOTAL FUNDING   | TRN              |                           | 261B   |                     | 261B   |
| 23.                           | I05         | MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT OAHU PORTS, OAHU  |                  |                           |        |                     |        |
|                               |             | DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS, AND OTHER RELATED FACILITIES.   |                  |                           |        |                     |        |
|                               |             | DESIGN  |                  |                           | 47     |                     | 47     |
|                               |             | CONSTRUCTION  |                  |                           | 142    |                     | 142    |
|                               |             | TOTAL FUNDING   | TRN              |                           | 189B   |                     | 189B   |
| 24.                           |             | HARBORS DIVISION CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE  |                  |                           |        |                     |        |
|                               |             | PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS. |                  |                           |        |                     |        |
|                               |             | PLANS   |                  |                           | 998    |                     | 998    |
|                               |             | DESIGN  |                  |                           | 1      |                     | 1      |
|                               |             | CONSTRUCTION  |                  |                           | 1      |                     | 1      |
|                               |             | TOTAL FUNDING   | TRN              |                           | 1,000E |                     | 1,000E |
| <b>TRN501 - OAHU HIGHWAYS</b> |             |   |                  |                           |        |                     |        |
| 25.                           | R52         | CASTLE JUNCTION INTERCHANGE, KOOLAUPOKO, OAHU   |                  |                           |        |                     |        |
|                               |             | LAND ACQUISITION FOR A HIGHWAY INTERCHANGE TO REPLACE THE EXISTING AT-GRADE INTERSECTION AT THE JUNCTION OF KALANIANA'OLE, PALI, AND KAMEHAMEHA HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |        |                     |        |
|                               |             | LAND  |                  |                           | 2,500  |                     |        |
|                               |             | TOTAL FUNDING   | TRN              |                           | 500E   |                     | E      |
|                               |             |   | TRN              |                           | 2,000N |                     | N      |
| 26.                           | R71         | LIKELIKE HWY-KAHEKILI HWY INTERCHANGE, AND KAHEKILI HWY IMPROVEMENTS, OAHU  |                  |                           |        |                     |        |
|                               |             | LAND ACQUISITION AND DESIGN FOR LIKELIKE HIGHWAY-KAHEKILI HIGHWAY INTERCHANGE   |                  |                           |        |                     |        |

CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |        |                     |        |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|--------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
|          |             | AND KAHEKILI HIGHWAY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |        |                     |        |
|          |             | LAND  |                  |                           | 800    |                     |        |
|          |             | DESIGN  |                  |                           | 3,700  |                     |        |
|          |             | TOTAL FUNDING   | TRN              |                           | 3,860E |                     | E      |
|          |             |   | TRN              |                           | 640N   |                     | N      |
| 27.      | S11         | HAUULA BASEYARD IMPROVEMENTS, OAHU  |                  |                           |        |                     |        |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE DEMOLITION OF EXISTING METAL FRAME VEHICLE/STORAGE SHED AND CONSTRUCT A NEW HOLLOW TILE VEHICLE/STORAGE SHED.  |                  |                           |        |                     |        |
|          |             | LAND  |                  |                           | 1      |                     |        |
|          |             | DESIGN  |                  |                           | 25     |                     |        |
|          |             | CONSTRUCTION  |                  |                           | 225    |                     |        |
|          |             | TOTAL FUNDING   | TRN              |                           | 251E   |                     | E      |
| 28.      | S14         | INSTALLATION OF CHAIN LINK FENCE AT VARIOUS LOCATIONS, OAHU   |                  |                           |        |                     |        |
|          |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A 6-FOOT HIGH CHAIN LINK FENCE WITH CONCRETE FOOTINGS TO PREVENT PEDESTRIANS FROM CROSSING THE HIGHWAY AT MIDBLOCK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.         |                  |                           |        |                     |        |
|          |             | DESIGN  |                  |                           | 50     |                     |        |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 400    |
|          |             | TOTAL FUNDING   | TRN              |                           | 50E    |                     | 80E    |
|          |             |   | TRN              |                           | N      |                     | 320N   |
| 29.      | S74         | OAHU BIKEWAYS, OAHU   |                  |                           |        |                     |        |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A BIKEWAY ON OAHU FROM THE VICINITY OF ALA MOANA PARK TO MOKULEIA BY WAY OF PEARL HARBOR, WAIPAHU, WAIANAE, AND KAENA POINT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |        |
|          |             | LAND  |                  |                           | 5      |                     |        |
|          |             | DESIGN  |                  |                           | 220    |                     |        |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 4,170  |
|          |             | TOTAL FUNDING   | TRN              |                           | 100E   |                     | 850E   |
|          |             |   | TRN              |                           | 125N   |                     | 3,320N |
| 30.      | S82         | NIMITZ HIGHWAY - MAKAI BOULEVARD IMPROVEMENTS, OAHU   |                  |                           |        |                     |        |
|          |             | LAND ACQUISITION AND DESIGN FOR IMPROVEMENTS TO NIMITZ HIGHWAY FROM THE KEEHI INTERCHANGE AT INTERSTATE H-1 ALONG THE MAKAI BOULEVARD NETWORK TO KAPIOLANI INTERCHANGE ON INTERSTATE H-1. THIS PROJECT IS DEEMED NECESSARY TO   |                  |                           |        |                     |        |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.<br>(SPECIAL FUNDS FROM DUTY FREE)  |                  |                           |       |                     |       |
|          |             | LAND   |                  |                           |       | 7,000               |       |
|          |             | DESIGN   |                  | 10,000                    |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 1,200B                    |       |                     | B     |
|          |             |  | TRN              | 800E                      |       | 1,500E              |       |
|          |             |  | TRN              | 8,000N                    |       | 5,500N              |       |
| 31.      | S221        | INOAOLE STREAM BRIDGE, KALANIANAOLE HIGHWAY, WAIMANALO, OAHU   |                  |                           |       |                     |       |
|          |             | LAND ACQUISITION FOR THE REPLACEMENT OF THE INOAOLE STREAM BRIDGE ON THE KALANIANAOLE HIGHWAY IN WAIMANALO. DESIGN SHOULD ALLOW FOR FREE SPAN CONSTRUCTION OF THE APERTURE UNDER THE BRIDGE.                                     |                  |                           |       |                     |       |
|          |             | LAND   |                  | 250                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 250E                      |       |                     | E     |
| 32.      | S230        | WAIHAOLE BRIDGE REPLACEMENT, KAMEHAMEHA HIGHWAY, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF THE EXISTING CONCRETE STRUCTURE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 120                       |       |                     |       |
|          |             | CONSTRUCTION   |                  | 1,080                     |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 270E                      |       |                     | E     |
|          |             |  | TRN              | 930N                      |       |                     | N     |
| 33.      | S231        | KALANIANAOLE HIGHWAY WIDENING AND/OR REALIGNMENT, WAIMANALO TOWN, OAHU   |                  |                           |       |                     |       |
|          |             | PLANS FOR WIDENING AND/OR REALIGNMENT OF KALANIANAOLE HIGHWAY EXTENDING FROM THE OLOMANA GOLF COURSE TO THE WAIMANALO BEACH PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.    |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 800                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 160E                      |       |                     | E     |
|          |             |  | TRN              | 640N                      |       |                     | N     |
| 34.      | S232        | HIGHWAY LIGHTS ON INTERSTATE H-2, WAIAWA TO LEILEHUA INTERCHANGES, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF HIGHWAY LIGHTS ALONG INTERSTATE H-2 FROM WAIAWA INTERCHANGE TO LEILEHUA INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 800                       |       |                     |       |
|          |             | CONSTRUCTION   |                  |                           |       | 8,000               |       |
|          |             | TOTAL FUNDING  | TRN              | 200E                      |       | 1,600E              |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |         |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|---------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F   |
|          |             |   | TRN              |                           | 600N   |                     | 6,400N  |
| 35.      | S236        | KAMEHAMEHA HIGHWAY LIGHTS, KIPAPA STREET TO WAIKALANI DRIVE, OAHU   |                  |                           |        |                     |         |
|          |             | CONSTRUCTION FOR THE INSTALLATION OF NEW HIGHWAY LIGHTS ALONG KAMEHAMEHA HIGHWAY FROM KIPAPA STREET TO WAIKALANI DRIVE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |        |                     |         |
|          |             | CONSTRUCTION  |                  |                           | 800    |                     |         |
|          |             | TOTAL FUNDING   | TRN              |                           | 160E   |                     | E       |
|          |             |   | TRN              |                           | 640N   |                     | N       |
| 36.      | S237        | KAILUA ROAD-KALANIANAOLE HIGHWAY TO KAWAINUI BRIDGE, HIGHWAY LIGHTS, OAHU   |                  |                           |        |                     |         |
|          |             | CONSTRUCTION FOR THE REPLACEMENT OF EXISTING HIGHWAY LIGHTS WITH ENERGY EFFICIENT HIGH PRESSURE SODIUM LUMINARIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |        |                     |         |
|          |             | CONSTRUCTION  |                  |                           | 120    |                     |         |
|          |             | TOTAL FUNDING   | TRN              |                           | 30E    |                     | E       |
|          |             |   | TRN              |                           | 90N    |                     | N       |
| 37.      | S239        | TRAFFIC MANAGEMENT SYSTEM, INTERSTATE H-1, H-2, AND KALANIANAOLE HWY, OAHU  |                  |                           |        |                     |         |
|          |             | DESIGN AND CONSTRUCTION FOR A TRAFFIC MANAGEMENT SYSTEM WHICH INCLUDES THE INSTALLATION OF VARIABLE AND CHANGEABLE MESSAGE SIGNS, LOOP DETECTORS, EMERGENCY TELEPHONES, TRAFFIC SIGNAL SYSTEMS, FIBER-OPTIC CABLE AND CAMERAS (CCTV). PROJECT TO INCLUDE THE PROCUREMENT OF COMPUTER HARDWARE AND SOFTWARE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |         |
|          |             | DESIGN  |                  |                           | 5,000  |                     |         |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 25,200  |
|          |             | TOTAL FUNDING   | TRN              |                           | 580E   |                     | 2,670E  |
|          |             |   | TRN              |                           | 4,420N |                     | 22,530N |
| 38.      | S240        | KEAAHALA ROAD WIDENING, OAHU  |                  |                           |        |                     |         |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR WIDENING KEAAHALA ROAD FROM TWO LANES TO FOUR LANES FROM POOKELA ROAD TO KAHEKILI HIGHWAY.   |                  |                           |        |                     |         |
|          |             | LAND  |                  |                           | 25     |                     |         |
|          |             | DESIGN  |                  |                           | 160    |                     |         |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 1,900   |
|          |             | TOTAL FUNDING   | TRN              |                           | 185E   |                     | 1,900E  |
| 39.      | S241        | LIKELIKE HIGHWAY TRAFFIC IMPROVEMENTS STUDY, VALLEY VIEW DRIVE TO H-1, OAHU   |                  |                           |        |                     |         |



## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | PLANS FOR A TRAFFIC IMPROVEMENTS STUDY FOR LIKELIKE HIGHWAY FROM VALLEY VIEW DRIVE TO INTERSTATE H-1. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 1,000                     |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 250E                      |       |                     | E     |
|          |             |  | TRN              | 750N                      |       |                     | N     |
| 40.      |             | INTERSECTION IMPROVEMENTS AT LIKELIKE HIGHWAY AND ALU STREET, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT LIKELIKE HIGHWAY AND ALU STREET. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC SIGNAL SYSTEM.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 40                        |       |                     |       |
|          |             | CONSTRUCTION   |                  | 360                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 400E                      |       |                     | E     |
| 41.      |             | FORT WEAVER ROAD, TRAFFIC SIGNAL INTERCONNECTION/ SYNCHRONIZATION, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE INTERCONNECTION AND SYNCHRONIZATION OF TRAFFIC SIGNALS ON FORT WEAVER ROAD.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 85                        |       |                     |       |
|          |             | CONSTRUCTION   |                  | 765                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 850E                      |       |                     | E     |
| 42.      |             | KAMEHAMEHA HIGHWAY, DRAINAGE IMPROVEMENTS, KAHUKU, OAHU  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION FOR THE INSTALLATION OF DRAINAGE SYSTEM IMPROVEMENTS IN THE VICINITY OF KAHUKU HIGH SCHOOL. PROJECT TO INCLUDE THE INSTALLATION OF DRAINAGE SYSTEM OF GRATED DROP INTAKES, CULVERTS, PIPE SYSTEM, AND CONCRETE LINED GUTTERS. |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 500                       |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 500B                      |       |                     | B     |
| 43.      |             | MAUKA HIGHWAY, MAKAHA TO NANAKULI, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS AND DESIGN FOR A MAUKA HIGHWAY AS AN ALTERNATIVE ROUTE TO FARRINGTON HIGHWAY FROM MAKAHA TO NANAKULI.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 100                       |       |                     |       |
|          |             | DESIGN   |                  | 100                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 200B                      |       |                     | B     |
| 44.      |             | FARRINGTON HIGHWAY IMPROVEMENTS, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR STORAGE AND ACCELERATION LANES FOR INGRESS AND EGRESS IN THE VICINITY OF KAHE "TRACKS" BEACH PARK.   |                  |                           |       |                     |       |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | DESIGN  |                  |                           | 30     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 270    |                     |       |
|          |             | TOTAL FUNDING   | TRN              |                           | 300B   |                     | B     |
| 45.      |             | INTERSTATE H-2, WAIPIO INTERCHANGE IMPROVEMENTS, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE INTERSTATE H-2, WAIPIO INTERCHANGE IMPROVEMENTS INCLUDING A NEW WESTBOUND TO SOUTHBOUND LOOP ON-RAMP AND WIDENING OF THE EXISTING NORTHBOUND OFF-RAMP. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 700    |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 9,500  |                     |       |
|          |             | TOTAL FUNDING   | TRN              |                           | 8,160N |                     | N     |
|          |             |   | TRN              |                           | 2,040R |                     | R     |
| 46.      | S242        | OAHU DISTRICT BASEYARD, INSTALLATION OF FUEL STORAGE TANKS, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMOVAL AND DISPOSAL OF THE EXISTING UNDERGROUND STORAGE TANKS, THE INSTALLATION OF FUEL STORAGE TANKS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 1      |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 449    |                     |       |
|          |             | EQUIPMENT   |                  |                           | 50     |                     |       |
|          |             | TOTAL FUNDING   | TRN              |                           | 500B   |                     | B     |
| 47.      |             | INTERSTATE H-2, MILILANI INTERCHANGE IMPROVEMENTS, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR INTERSTATE H-2, MILILANI INTERCHANGE IMPROVEMENTS. PROJECT TO INCLUDE A NEW SOUTHBOUND LOOP ONRAMP AND MODIFICATIONS TO THE EXISTING SOUTHBOUND ON AND OFF RAMPs, AND MODIFICATIONS TO MEHEULA PARKWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 500    |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 7,000  |                     |       |
|          |             | TOTAL FUNDING   | TRN              |                           | 6,000N |                     | N     |
|          |             |   | TRN              |                           | 1,500R |                     | R     |
| 48.      |             | KUNIA ROAD WIDENING, SOUTH KUPUNA LOOP TO ANONUI STREET, OAHU   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION FOR THE WIDENING OF KUNIA ROAD INCLUDING MODIFICATION OF LANE USE AND TRAFFIC SIGNALIZATION AT THE KUNIA ROAD/NORTH KUPUNA LOOP AND KUNIA ROAD/SOUTH KUPUNA LOOP INTERSECTIONS; WIDENING OF EXISTING WESTBOUND OFF RAMP FROM H-1 TO NORTHBOUND KUNIA ROAD; AND   |                  |                           |        |                     |       |

CAPITAL IMPROVEMENT PROJECTS

|   |             |  |                  | APPROPRIATIONS (IN 000's) |        |                     |        |
|---|-------------|--|------------------|---------------------------|--------|---------------------|--------|
| ITEM NO.  | CAPITAL NO. | PROJECT TITLE                                  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
| TRAFFIC SIGNALIZATION AT THE KUNIA ROAD INTERSECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |             |  |                  |                           |        |                     |        |
|   |             | CONSTRUCTION                                   |                  |                           | 4,000  |                     |        |
|   |             | TOTAL FUNDING                                  | TRN              |                           | 3,200N |                     | N      |
|   |             |  | TRN              |                           | 800R   |                     | R      |
| 49.   |             | FARRINGTON HIGHWAY IMPROVEMENTS, KAPOLEI, OAHU |                  |                           |        |                     |        |
| PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO FARRINGTON HIGHWAY. PROJECT TO INCLUDE HIGHWAY WIDENING, HIGHWAY LIGHTING, TRAFFIC SIGNALS, DRAINAGE IMPROVEMENTS, ACCESS ROAD TO THE UNIVERSITY OF HAWAII- WEST OAHU AT KAPOLEI, AND OTHER MISCELLANEOUS IMPROVEMENTS. |             |  |                  |                           |        |                     |        |
|   |             | PLANS  |                  |                           | 1      |                     |        |
|   |             | LAND   |                  |                           | 1      |                     |        |
|   |             | DESIGN   |                  |                           | 558    |                     |        |
|   |             | CONSTRUCTION                                   |                  |                           |        |                     | 5,040  |
|   |             | TOTAL FUNDING                                  | TRN              |                           | 280B   |                     | 2,520B |
|   |             |  | TRN              |                           | 280R   |                     | 2,520R |

TRN511 - HAWAII HIGHWAYS

50. T27 HAWAII BELT ROAD: REPLACEMENT OF 5 BRIDGES, HAMAKUA, HAWAII

LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR HAWAII BELT ROAD IMPROVEMENTS, HAMAKUA, HAWAII. REPLACE EXISTING WOODEN BRIDGES AT KAINEHE, KAHOLALELE, PAAUILO SCHOOL, AND EAST PAAUILO STREAMS AND CONCRETE BRIDGE AT KEALAKAHA STREAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |      |         |
|---------------|-----|------|---------|
| LAND          |     | 100  |         |
| DESIGN        |     | 600  |         |
| CONSTRUCTION  |     |      | 14,000  |
| TOTAL FUNDING | TRN | 700E | 2,800E  |
|               | TRN | N    | 11,200N |

51. T77 GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, HAWAII

DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|        |  |    |    |
|--------|--|----|----|
| DESIGN |  | 50 | 50 |
|--------|--|----|----|

CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE   | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|--|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
|             |                | CONSTRUCTION   |                     | 1,000                     |             | 1,000                     |             |
|             |                | TOTAL FUNDING  | TRN                 | 184E                      |             | 184E                      |             |
|             |                |  | TRN                 | 866N                      |             | 866N                      |             |
| 52.         | T79            | HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS, DISTRICT OF KAU, HAWAII   |                     |                           |             |                           |             |
|             |                | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR HYDROLOGIC STUDIES OF DRAINAGE BASINS WHICH CAUSE FLOODING OF HAWAII BELT ROAD AND SUBSEQUENT DRAINAGE IMPROVEMENTS INCLUDING NEW STRUCTURES.   |                     |                           |             |                           |             |
|             |                | LAND   |                     | 100                       |             |                           |             |
|             |                | DESIGN   |                     | 150                       |             |                           |             |
|             |                | CONSTRUCTION   |                     | 1,000                     |             | 600                       |             |
|             |                | TOTAL FUNDING  | TRN                 | 1,250E                    |             | 600E                      |             |
| 53.         | T82            | WIDENING OF QUEEN KAAHUMANU HIGHWAY, HAWAII  |                     |                           |             |                           |             |
|             |                | CONSTRUCTION FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR-LANE DIVIDED HIGHWAY FROM PALANI ROAD TOWARDS KAWAIHAE INCLUDING PAVED SHOULDERS FOR A BIKE ROUTE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. (SPECIAL FUNDS FROM DUTY FREE) |                     |                           |             |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 25,000                    |             |
|             |                | TOTAL FUNDING  | TRN                 |                           | B           | 5,500B                    |             |
|             |                |  | TRN                 |                           | N           | 19,500N                   |             |
| 54.         | T110           | HAWAII BELT ROAD, ROCKFALL PROTECTION AT MAULUA, LAUPAHOEHOE AND KAAWALII, HAWAII  |                     |                           |             |                           |             |
|             |                | DESIGN FOR THE DETERMINATION OF ALTERNATIVES, ESTIMATED COSTS, AND RECOMMENDATIONS FOR ROCKFALL PROTECTION AT MAULUA, LAUPAHOEHOE AND KAAWALII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                     |                           |             |                           |             |
|             |                | DESIGN   |                     |                           |             | 300                       |             |
|             |                | TOTAL FUNDING  | TRN                 |                           | E           | 75E                       |             |
|             |                |  | TRN                 |                           | N           | 225N                      |             |
| 55.         | T111           | TRAFFIC SIGNALS AT KUAKINI HIGHWAY, ROUTE 11 AND SEAVIEW CIRCLE, HAWAII  |                     |                           |             |                           |             |
|             |                | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE INSTALLATION OF TRAFFIC SIGNALS AND IMPROVEMENTS AT KUAKINI HIGHWAY AND SEAVIEW CIRCLE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                     |                           |             |                           |             |
|             |                | LAND   |                     | 10                        |             |                           |             |
|             |                | DESIGN   |                     | 50                        |             |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 600                       |             |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |         |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|---------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F   |
|          |             | TOTAL FUNDING  | TRN              |                           | 19E    |                     | 120E    |
|          |             |  | TRN              |                           | 41N    |                     | 480N    |
| 56.      | T112        | REPLACE BRIDGES AT KUPAPAUlua, PEPOO, AUWAlAKEAKUA, AND HALAULANI, HAWAII  |                  |                           |        |                     |         |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE REPLACEMENT OF TWO TIMBER BRIDGES (AUWAlAKEAKUA AND PEPOO), A TIMBER-STEEL GIRDER (HALAULANI) AND A T-GIRDER CONCRETE ARCH BRIDGE (KUPAPAUlua). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |         |
|          |             | LAND   |                  |                           |        |                     | 3,905   |
|          |             | DESIGN   |                  |                           | 3,330  |                     |         |
|          |             | CONSTRUCTION   |                  |                           |        |                     | 11,410  |
|          |             | TOTAL FUNDING  | TRN              |                           | 830E   |                     | 3,280E  |
|          |             |  | TRN              |                           | 2,500N |                     | 12,035N |
| 57.      | T115        | QUEEN KAAHUMANU HIGHWAY SHOULDER IMPROVEMENTS FOR BICYCLE ROUTE, HAWAII  |                  |                           |        |                     |         |
|          |             | DESIGN AND CONSTRUCTION FOR SHOULDER IMPROVEMENTS FOR BICYCLE ROUTE FROM KEAHOLE TO KAWAIHAE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |        |                     |         |
|          |             | DESIGN   |                  |                           | 40     |                     |         |
|          |             | CONSTRUCTION   |                  |                           | 500    |                     |         |
|          |             | TOTAL FUNDING  | TRN              |                           | 117E   |                     | E       |
|          |             |  | TRN              |                           | 423N   |                     | N       |
| 58.      |             | HILO WATERFRONT ROAD, WAILOA RIVER BRIDGE TO HILO WHARF, HAWAII  |                  |                           |        |                     |         |
|          |             | CONSTRUCTION FOR THE IMPROVEMENT OF HIGHWAY FROM THE VICINITY OF WAILOA RIVER BRIDGE TO HILO WHARF INCLUDING THE REPLACEMENT OF WAILOA RIVER BRIDGE.   |                  |                           |        |                     |         |
|          |             | CONSTRUCTION   |                  |                           | 700    |                     |         |
|          |             | TOTAL FUNDING  | TRN              |                           | 700E   |                     | E       |
| 59.      |             | HAWAII BIKEWAYS, HAWAII  |                  |                           |        |                     |         |
|          |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A BIKEWAY ON HAWAII. PROJECT TO INCLUDE IMPROVEMENTS ON KANOELEHUA AVENUE/HIGHWAY 11 FROM WAILOA STATE PARK TO KEAAU-PAHOA ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.             |                  |                           |        |                     |         |
|          |             | PLANS  |                  |                           | 80     |                     |         |
|          |             | LAND   |                  |                           | 1      |                     |         |
|          |             | DESIGN   |                  |                           | 79     |                     |         |
|          |             | CONSTRUCTION   |                  |                           | 840    |                     |         |
|          |             | TOTAL FUNDING  | TRN              |                           | 200E   |                     | E       |
|          |             |  | TRN              |                           | 800N   |                     | N       |

CAPITAL IMPROVEMENT PROJECTS

|                        |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|------------------------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.               | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| TRN531 - MAUI HIGHWAYS |             |   |                  |                           |       |                     |       |
| 60.                    | V48         | GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, MAUI   |                  |                           |       |                     |       |
|                        |             | DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.                   |                  |                           |       |                     |       |
|                        |             | DESIGN  |                  | 120                       |       | 120                 |       |
|                        |             | CONSTRUCTION  |                  | 1,400                     |       |                     |       |
|                        |             | TOTAL FUNDING   | TRN              | 400E                      |       | 52E                 |       |
|                        |             |   | TRN              | 1,120N                    |       | 68N                 |       |
| 61.                    | V62         | KAAHUMANU AVENUE, TRAFFIC SIGNAL UPGRADE, MAUI  |                  |                           |       |                     |       |
|                        |             | DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING TRAFFIC SIGNAL SYSTEM ON KAAHUMANU AVENUE FROM HANA HIGHWAY TO WAILUKU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |       |                     |       |
|                        |             | DESIGN  |                  | 70                        |       |                     |       |
|                        |             | CONSTRUCTION  |                  |                           |       | 500                 |       |
|                        |             | TOTAL FUNDING   | TRN              | 12E                       |       | 100E                |       |
|                        |             |   | TRN              | 58N                       |       | 400N                |       |
| 62.                    | V63         | KAHULUI AIRPORT ACCESS ROAD, MAUI   |                  |                           |       |                     |       |
|                        |             | CONSTRUCTION FOR AN ACCESS ROAD FROM PUUNENE AVENUE TO KAHULUI AIRPORT. PROJECT TO INCLUDE AN INTERCHANGE AT HANA HIGHWAY, STRIPING, LANDSCAPING, DRAINAGE, LIGHTING, UTILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. (SPECIAL FUNDS FROM DUTY FREE) |                  |                           |       |                     |       |
|                        |             | CONSTRUCTION  |                  | 50,000                    |       |                     |       |
|                        |             | TOTAL FUNDING   | TRN              | 10,000B                   |       | B                   |       |
|                        |             |   | TRN              | 40,000N                   |       | N                   |       |
| 63.                    |             | KAAHUMANU AVENUE, KAHULUI, MAUI   |                  |                           |       |                     |       |
|                        |             | DESIGN AND CONSTRUCTION FOR A LEFT TURN DECELERATION LANE OFF OF KAAHUMANU AVENUE, INTO HOALOHA PARK, KAHULUI, MAUI.  |                  |                           |       |                     |       |
|                        |             | DESIGN  |                  | 10                        |       |                     |       |
|                        |             | CONSTRUCTION  |                  | 90                        |       |                     |       |
|                        |             | TOTAL FUNDING   | TRN              | 100E                      |       | E                   |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 64.      |             | MAUI BIKEWAYS, MAUI   |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A BIKEWAY ON MAUI. PROJECT TO INCLUDE IMPROVEMENTS ON HONOAPIILANI HIGHWAY FROM SHAW STREET TO MAALAEA HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 80                        |       |                     |       |
|          |             | LAND  |                  | 1                         |       |                     |       |
|          |             | DESIGN  |                  | 79                        |       |                     |       |
|          |             | CONSTRUCTION  |                  | 840                       |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 200E                      |       |                     | E     |
|          |             |   | TRN              | 800N                      |       |                     | N     |
| 65.      |             | INTERSECTION IMPROVEMENTS AT DICKENSON STREET AND HONOAPIILANI HIGHWAY, MAUI  |                  |                           |       |                     |       |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT DICKENSON STREET AND HONOAPIILANI HIGHWAY. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC SIGNALS AND OTHER RELATED WORK.   |                  |                           |       |                     |       |
|          |             | LAND  |                  | 1                         |       |                     |       |
|          |             | DESIGN  |                  | 49                        |       |                     |       |
|          |             | CONSTRUCTION  |                  | 350                       |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 400B                      |       |                     | B     |
| 66.      |             | TRAFFIC SIGNALS ON HONOAPIILANI HIGHWAY AT LAHAINALUNA ROAD, MAUI   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO TRAFFIC SIGNALS ON HONOAPIILANI HIGHWAY AT LAHAINALUNA ROAD.  |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 10                        |       |                     |       |
|          |             | CONSTRUCTION  |                  | 65                        |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 75B                       |       |                     | B     |
| 67. V15  |             | KEANAE BASEYARD, BASEYARD FACILITIES AND FUEL STORAGE TANKS, MAUI   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW BASEYARD FACILITY TO INCLUDE AN OFFICE BUILDING, STORAGE SHED, MOTOR VEHICLE SHED, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. PROJECT SHALL INCLUDE THE DEMOLITION AND REMOVAL OF THE EXISTING BASEYARD FACILITIES INCLUDING THE EXISTING UNDERGROUND FUEL STORAGE TANKS. |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 45                        |       |                     |       |
|          |             | CONSTRUCTION  |                  | 2,050                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 50                        |       |                     |       |
|          |             | TOTAL FUNDING   | TRN              | 2,145B                    |       |                     | B     |

CAPITAL IMPROVEMENT PROJECTS

|   |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|---|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.  | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| TRN541 - MOLOKAI HIGHWAYS   |             |  |                  |                           |       |                     |       |
| 68.   | W08         | GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, MOLOKAI |                  |                           |       |                     |       |
| DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON MOLOKAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |             |  |                  |                           |       |                     |       |
| DESIGN  |             |  |                  | 60                        |       |                     |       |
| CONSTRUCTION  |             |  |                  |                           |       |                     | 600   |
| TOTAL FUNDING   |             |  |                  | TRN                       | 26E   |                     | 120E  |
|   |             |  |                  | TRN                       | 34N   |                     | 480N  |
| TRN551 - LANAI HIGHWAYS   |             |  |                  |                           |       |                     |       |
| 69.   | W58         | GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, LANAI   |                  |                           |       |                     |       |
| DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON LANAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |             |  |                  |                           |       |                     |       |
| DESIGN  |             |  |                  | 36                        |       |                     |       |
| CONSTRUCTION  |             |  |                  |                           |       |                     | 360   |
| TOTAL FUNDING   |             |  |                  | TRN                       | 9E    |                     | 90E   |
|   |             |  |                  | TRN                       | 27N   |                     | 270N  |
| TRN561 - KAUAI HIGHWAYS   |             |  |                  |                           |       |                     |       |
| 70.   | X51         | GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, KAUAI   |                  |                           |       |                     |       |
| DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON KAUAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |             |  |                  |                           |       |                     |       |
| DESIGN  |             |  |                  | 100                       |       |                     | 100   |
| CONSTRUCTION  |             |  |                  | 1,000                     |       |                     | 1,000 |
| TOTAL FUNDING   |             |  |                  | TRN                       | 243E  |                     | 243E  |



## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             |  | TRN              |                           | 857N   |                     | 857N  |
| 71.      | X75         | KAUMUALII HIGHWAY IMPROVEMENTS AT JUNCTION WITH HALEWILI ROAD, KAUAI   |                  |                           |        |                     |       |
|          |             | LAND ACQUISITION AND CONSTRUCTION FOR THE CONVERSION OF THE SKEWED INTERSECTION TO STANDARD INTERSECTION WITH PROVISIONS FOR LEFT-TURN STORAGE LANE ON KAUMUALII HIGHWAY AND PROVISIONS FOR LEFT-TURN AND RIGHT-TURN LANES ON HALEWILI ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |       |
|          |             | LAND   |                  |                           | 380    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 1,417  |                     |       |
|          |             | TOTAL FUNDING  | TRN              |                           | 663E   |                     | E     |
|          |             |  | TRN              |                           | 1,134N |                     | N     |
| 72.      |             | KAUAI BIKEWAYS, KAUAI  |                  |                           |        |                     |       |
|          |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A BIKEWAY ON KAUAI. PROJECT TO INCLUDE IMPROVEMENTS ON KAUMUALII HIGHWAY FROM RICE STREET TO HANAPEPE.   |                  |                           |        |                     |       |
|          |             | PLANS  |                  |                           | 80     |                     |       |
|          |             | LAND   |                  |                           | 1      |                     |       |
|          |             | DESIGN   |                  |                           | 79     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 840    |                     |       |
|          |             | TOTAL FUNDING  | TRN              |                           | 200E   |                     | E     |
|          |             |  | TRN              |                           | 800N   |                     | N     |
| 73.      |             | AHUKINI ROAD, KAUAI  |                  |                           |        |                     |       |
|          |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO AHUKINI ROAD FROM KAPULE HIGHWAY TO HANAMAULU BAY BY RESURFACING, REALIGNING, WIDENING AND/OR BYPASSING THE EXISTING HIGHWAY TO INCLUDE NECESSARY SIGNAGE, UTILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. (SPECIAL FUNDS FROM DUTY FREE)                                |                  |                           |        |                     |       |
|          |             | LAND   |                  |                           | 1      |                     |       |
|          |             | DESIGN   |                  |                           | 499    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 3,000  |                     |       |
|          |             | TOTAL FUNDING  | TRN              |                           | 3,500B |                     | B     |

## TRN595 - HIGHWAYS ADMINISTRATION

## 74. X91 WHEELCHAIR RAMPS AT VARIOUS LOCATIONS, STATEWIDE

DESIGN AND CONSTRUCTION FOR WHEELCHAIR RAMPS AT VARIOUS LOCATIONS ALONG STATE HIGHWAYS, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |        |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|--------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
|          |             | DESIGN   |                  |                           | 75     |                     |        |
|          |             | CONSTRUCTION   |                  |                           | 500    |                     |        |
|          |             | TOTAL FUNDING  | TRN              |                           | 175E   |                     | E      |
|          |             |  | TRN              |                           | 400N   |                     | N      |
| 75.      | X96         | CLOSEOUT OF HIGHWAY RIGHTS-OF-WAY, STATEWIDE   |                  |                           |        |                     |        |
|          |             | LAND ACQUISITION FOR CLEAR TITLE TO REAL PROPERTY USED FOR THE CONSTRUCTION OF PREVIOUS HIGHWAY PROJECTS WHERE APPLICABLE, TO PROVIDE FOR THE TRANSFER OF REAL PROPERTY INTEREST FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM.  |                  |                           |        |                     |        |
|          |             | LAND   |                  |                           | 300    |                     | 300    |
|          |             | TOTAL FUNDING  | TRN              |                           | 300E   |                     | 300E   |
| 76.      | X97         | MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE   |                  |                           |        |                     |        |
|          |             | DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 130    |                     | 130    |
|          |             | CONSTRUCTION   |                  |                           |        |                     | 900    |
|          |             | TOTAL FUNDING  | TRN              |                           | 55E    |                     | 235E   |
|          |             |  | TRN              |                           | 75N    |                     | 795N   |
| 77.      | X98         | IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE  |                  |                           |        |                     |        |
|          |             | DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. PROJECT TO INCLUDE THE ELIMINATION OF CONSTRUCTIONS ON- AND OFF-SITE AFFECTING EFFICIENT FLOW OF TRAFFIC ON INTERSTATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 375    |                     | 375    |
|          |             | CONSTRUCTION   |                  |                           | 2,500  |                     | 2,500  |
|          |             | TOTAL FUNDING  | TRN              |                           | 875E   |                     | 875E   |
|          |             |  | TRN              |                           | 2,000N |                     | 2,000N |
| 78.      | X99         | HIGHWAY PLANNING, STATEWIDE  |                  |                           |        |                     |        |
|          |             | PLANS FOR ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH AND ADVANCED PLANNING OF FEDERAL AID AND NON-FEDERAL AID HIGHWAY PROJECTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |        |                     |        |
|          |             | PLANS  |                  |                           | 7,500  |                     |        |
|          |             | TOTAL FUNDING  | TRN              |                           | 2,500E |                     | E      |
|          |             |  | TRN              |                           | 5,000N |                     | N      |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |        |                     |         |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|---------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F   |
| 79.      | X220        | INSTALLATION OF EMERGENCY TELEPHONES AT VARIOUS LOCATIONS, STATEWIDE  |                  |                           |        |                     |         |
|          |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF EMERGENCY SOLAR POWERED TELEPHONES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |        |                     |         |
|          |             | DESIGN  |                  |                           | 30     |                     | 30      |
|          |             | CONSTRUCTION  |                  |                           | 900    |                     | 900     |
|          |             | TOTAL FUNDING   | TRN              |                           | 210E   |                     | 210E    |
|          |             |   | TRN              |                           | 720N   |                     | 720N    |
| 80.      | X221        | TRAFFIC SIGNAL MODERNIZATION AT VARIOUS LOCATIONS, STATEWIDE  |                  |                           |        |                     |         |
|          |             | DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF EXISTING TRAFFIC CONTROLLERS, CABLES AND CONDUITS, PULLBOXES AND TRAFFIC SIGNAL APPURTENANCES WITH THE LATEST STATE OF THE ART EQUIPMENT AND MATERIALS TO PROVIDE INTERCONNECTION OF SIGNALIZED INTERSECTIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |        |                     |         |
|          |             | DESIGN  |                  |                           | 300    |                     |         |
|          |             | CONSTRUCTION  |                  |                           | 1,500  |                     | 1,500   |
|          |             | TOTAL FUNDING   | TRN              |                           | 600E   |                     | 300E    |
|          |             |   | TRN              |                           | 1,200N |                     | 1,200N  |
| 81.      | X222        | SEISMIC RETROFIT OF VARIOUS BRIDGES, STATEWIDE  |                  |                           |        |                     |         |
|          |             | DESIGN AND CONSTRUCTION FOR SEISMIC RETROFIT OF VARIOUS BRIDGES ON OAHU AND HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |        |                     |         |
|          |             | DESIGN  |                  |                           | 5,000  |                     | 5,000   |
|          |             | CONSTRUCTION  |                  |                           |        |                     | 50,000  |
|          |             | TOTAL FUNDING   | TRN              |                           | 1,000E |                     | 11,000E |
|          |             |   | TRN              |                           | 4,000N |                     | 44,000N |
| 82.      |             | HIGHWAYS DIVISION CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE   |                  |                           |        |                     |         |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.            |                  |                           |        |                     |         |
|          |             | PLANS   |                  |                           | 18,998 |                     | 18,998  |
|          |             | DESIGN  |                  |                           | 1      |                     | 1       |
|          |             | CONSTRUCTION  |                  |                           | 1      |                     | 1       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | TOTAL FUNDING  | TRN              | 6,000B                    |       | 6,000B              |       |
|          |             |  | TRN              | 13,000E                   |       | 13,000E             |       |
| 83.      | X102        | ISTEA MANAGEMENT SYSTEMS, STATEWIDE  |                  |                           |       |                     |       |
|          |             | PLANS AND EQUIPMENT FOR IMPLEMENTATION OF SEVEN MANAGEMENT SYSTEMS FOR TRANSPORTATION MANAGEMENT AND TO DEVELOP APPROPRIATE INFORMATION SYSTEMS TO GENERATE THE DATA NECESSARY FOR THESE MANAGEMENT SYSTEMS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 200                       |       |                     |       |
|          |             | EQUIPMENT  |                  | 1,250                     |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 290E                      |       |                     | E     |
|          |             |  | TRN              | 1,160N                    |       |                     | N     |
| 84.      |             | ALA WAI CANAL DREDGING, WATER QUALITY, AND OTHER IMPROVEMENTS, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR THE DREDGING; WATER QUALITY; AND OTHER IMPROVEMENTS TO THE ALA WAI CANAL. STATE MATCH TO BE PROVIDED IN CONJUNCTION WITH FUNDS FROM THE CITY AND COUNTY OF HONOLULU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.     |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 100                       |       |                     |       |
|          |             | DESIGN   |                  | 800                       |       |                     |       |
|          |             | CONSTRUCTION   |                  | 6,800                     |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 500C                      |       |                     | C     |
|          |             |  | TRN              | 6,700N                    |       |                     | N     |
|          |             |  | TRN              | 500S                      |       |                     | S     |
| 85.      |             | POKAI BAY BEACH AND BREAKWATER IMPROVEMENTS, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO POKAI BAY BEACH TO INCLUDE BREAKWATER IMPROVEMENTS AND WATER CIRCULATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  | 1                         |       |                     |       |
|          |             | DESIGN   |                  | 79                        |       |                     |       |
|          |             | CONSTRUCTION   |                  | 220                       |       |                     |       |
|          |             | TOTAL FUNDING  | TRN              | 60C                       |       |                     | C     |
|          |             |  | TRN              | 240N                      |       |                     | N     |

## D. ENVIRONMENTAL PROTECTION

## HTH840 - ENVIRONMENTAL MANAGEMENT

1. 840001 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION FOR FUNDS TO MATCH

## CAPITAL IMPROVEMENT PROJECTS

|   |             |               |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|---|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.  | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS APPROPRIATED TO BE TRANSFERRED TO WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED PURSUANT TO CHAPTER 342-D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |             |               |                  |                           |       |                     |       |
|   |             | CONSTRUCTION  |                  | 14,683                    |       |                     |       |
|   |             | TOTAL FUNDING | HTH              | 2,447C                    |       |                     | C     |
|   |             |               | HTH              | 12,236N                   |       |                     | N     |

## LNR402 - FORESTS AND WILDLIFE RESOURCES

## 2. D09 HAWAII BRANCH, DOFAW HILO OFFICE COMPLEX, HAWAII

CONSTRUCTION AND EQUIPMENT FOR AN OFFICE COMPLEX BUILDING AND APPURTENANT FACILITIES TO MEET THE HAWAII BRANCH'S OFFICE SPACE AND PUBLIC SERVICES FACILITY REQUIREMENTS.

|               |     |        |     |
|---------------|-----|--------|-----|
| CONSTRUCTION  |     | 2,421  |     |
| EQUIPMENT     |     |        | 48  |
| TOTAL FUNDING | LNR | 2,421C | 48C |

## 3. KAHULUI BASEYARD UNDERGROUND FUEL STORAGE TANKS, MAUI

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT/UPGRADE OF FUEL STORAGE TANKS AND RELATED CLEANUP. PROJECT TO INCLUDE ALTERATIONS AND MODIFICATIONS FOR THE KAHULUI BASEYARD WAREHOUSE ROOF.

|               |     |      |   |
|---------------|-----|------|---|
| PLANS         |     | 1    |   |
| DESIGN        |     | 57   |   |
| CONSTRUCTION  |     | 516  |   |
| EQUIPMENT     |     | 1    |   |
| TOTAL FUNDING | LNR | 575C | C |

## LNR404 - WATER RESOURCES

## 4. G55B KALAOA MONITOR WELL, HAWAII

PLANS, LAND ACQUISITION, AND DESIGN FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.

|               |     |     |   |
|---------------|-----|-----|---|
| PLANS         |     | 10  |   |
| LAND          |     | 10  |   |
| DESIGN        |     | 38  |   |
| TOTAL FUNDING | LNR | 58C | C |

## 5. G55C KAHALUU MONITOR WELL, HAWAII

PLANS, LAND ACQUISITION, AND DESIGN FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.

|       |  |    |  |
|-------|--|----|--|
| PLANS |  | 10 |  |
| LAND  |  | 10 |  |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | DESIGN   |                  |                           | 38    |                     |       |
|          |             | TOTAL FUNDING  | LNR              |                           | 58C   |                     | C     |
| 6.       | G55D        | LAHAINA MONITOR WELL, MAUI   |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, AND DESIGN FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 10    |                     |       |
|          |             | LAND   |                  |                           | 10    |                     |       |
|          |             | DESIGN   |                  |                           | 38    |                     |       |
|          |             | TOTAL FUNDING  | LNR              |                           | 58C   |                     | C     |
| 7.       | G55F        | MONITOR AND EXPLORATORY WELLS, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, AND DESIGN FOR MONITOR OR EXPLORATORY WELLS TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE. PROJECT WILL ENTAIL FEDERAL AND COUNTY COST SHARING. |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 10    |                     |       |
|          |             | LAND   |                  |                           | 10    |                     |       |
|          |             | DESIGN   |                  |                           | 38    |                     |       |
|          |             | TOTAL FUNDING  | LNR              |                           | 58C   |                     | C     |

## LNR906 - LNR-NATURAL PHYSICAL ENVIRONMENT

## 8. CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE

PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.

|               |     |        |  |        |
|---------------|-----|--------|--|--------|
| PLANS         |     | 1,498  |  | 1,498  |
| DESIGN        |     | 1      |  | 1      |
| CONSTRUCTION  |     | 1      |  | 1      |
| TOTAL FUNDING | LNR | 1,500C |  | 1,500C |

## E. HEALTH

## HTH101 - TUBERCULOSIS/HANSEN'S DISEASE CONTROL

## 1. 101501 LANAKILA HEALTH CENTER, AIR CONDITIONING IMPROVEMENTS AND RENOVATIONS, OAHU

DESIGN AND CONSTRUCTION FOR THE UPGRADE OF THE EXISTING AIR CONDITIONING SYSTEM TO MEET CODE REQUIREMENTS AND RENOVATION OF INTERIOR SPACES TO CREATE POSITIVE/NEGATIVE AIR PRESSURE AS REQUIRED BY CODE. PROJECT TO INCLUDE THE REMOVAL OF ASBESTOS IN PIPE LAGGING.

DESIGN

71

## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|------------------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |                  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
|             |                | CONSTRUCTION     |                     |                           | 721         |                           |             |
|             |                | TOTAL FUNDING    | AGS                 |                           | 792C        |                           | C           |

## HTH214 - KOHALA HOSPITAL

2. 214001 KOHALA HOSPITAL, WASTEWATER TREATMENT PLANT, HAWAII

LAND ACQUISITION, DESIGN, AND  
CONSTRUCTION FOR THE INSTALLATION OF A  
WASTEWATER TREATMENT SYSTEM TO  
REPLACE DUAL CESSPOOL SYSTEM FOR 10,000  
GALLONS PER DAY DISCHARGE.

|               |     |      |   |
|---------------|-----|------|---|
| LAND          |     | 1    |   |
| DESIGN        |     | 1    |   |
| CONSTRUCTION  |     | 269  |   |
| TOTAL FUNDING | AGS | 271C | C |

## HTH215 - KONA HOSPITAL

3. 215601 KONA COMMUNITY HOSPITAL, RENOVATION AND EXPANSION,  
PHASE II, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR  
THE RENOVATION AND EXPANSION OF THE  
EXISTING FACILITY.

|               |     |        |   |
|---------------|-----|--------|---|
| DESIGN        |     | 453    |   |
| CONSTRUCTION  |     | 8,914  |   |
| EQUIPMENT     |     | 1      |   |
| TOTAL FUNDING | AGS | 4,000B | B |
|               | AGS | 5,368C | C |

## HTH221 - MAUI MEMORIAL HOSPITAL

4. 221001 MAUI MEMORIAL HOSPITAL RENOVATION AND EXPANSION, MAUI

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR  
SECOND INCREMENT/RENOVATION OF MAUI  
MEMORIAL HOSPITAL.

|               |     |        |   |
|---------------|-----|--------|---|
| DESIGN        |     | 229    |   |
| CONSTRUCTION  |     | 4,212  |   |
| EQUIPMENT     |     | 1      |   |
| TOTAL FUNDING | AGS | 4,442C | C |

## HTH222 - HANA MEDICAL CENTER

5. 222601 HANA MEDICAL CENTER - RENOVATION, EXPANSION, AND/OR  
ADDITION, MAUI

PLANS AND DESIGN FOR THE RENOVATION,  
EXPANSION, AND/OR ADDITION TO THE HANA  
MEDICAL CENTER. PROJECT WILL CORRECT  
EXISTING ADA, OSHA, AND MEDICAL FACILITY  
DEFICIENCIES AND WILL PROVIDE ADDITIONAL  
FACILITIES FOR THE EXPANSION OF PROGRAM  
ACTIVITIES.

|               |     |      |   |
|---------------|-----|------|---|
| PLANS         |     | 1    |   |
| DESIGN        |     | 449  |   |
| TOTAL FUNDING | AGS | 450C | C |

## HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL

CAPITAL IMPROVEMENT PROJECTS

|   |             |  |                  | APPROPRIATIONS (IN 000's) |        |                     |       |
|---|-------------|--|------------------|---------------------------|--------|---------------------|-------|
| ITEM NO.                                      | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
| 6.  |             | KAUAI VETERANS MEMORIAL HOSPITAL, RENAL DIALYSIS UNIT, KAUAI   |                  |                           |        |                     |       |
|   |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A RENAL DIALYSIS UNIT AT KAUAI VETERANS MEMORIAL HOSPITAL.   |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 25     |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 500    |                     |       |
|   |             | EQUIPMENT  |                  |                           | 158    |                     |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 683C   |                     | C     |
| SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES |             |  |                  |                           |        |                     |       |
| 7.  |             | KAHUKU HOSPITAL, OAHU  |                  |                           |        |                     |       |
|   |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF THE KAHUKU HOSPITAL TO PROVIDE FOR A LONG TERM CARE UNIT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS. |                  |                           |        |                     |       |
|   |             | PLANS  |                  |                           | 1      |                     |       |
|   |             | DESIGN   |                  |                           | 1      |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 1,497  |                     |       |
|   |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|   |             | TOTAL FUNDING  | HTH              |                           | 1,500C |                     | C     |
| 8.  |             | WILCOX MEMORIAL HOSPITAL, KAUAI  |                  |                           |        |                     |       |
|   |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION, EXPANSION, AND/OR ADDITION TO THE WILCOX MEMORIAL HOSPITAL AND RELATED FACILITIES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.  |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 200    |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 1,799  |                     |       |
|   |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|   |             | TOTAL FUNDING  | HTH              |                           | 2,000C |                     | C     |
| HTH501 - DEVELOPMENTAL DISABILITIES           |             |  |                  |                           |        |                     |       |
| 9.  | 501004      | HALE HAUOLI DAY CARE FACILITIES FOR THE MENTALLY RETARDED, KAUAI   |                  |                           |        |                     |       |
|   |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DAY CARE FACILITIES FOR THE MENTALLY RETARDED.  |                  |                           |        |                     |       |
|   |             | PLANS  |                  |                           | 1      |                     |       |
|   |             | DESIGN   |                  |                           | 519    |                     |       |
|   |             | CONSTRUCTION   |                  |                           |        | 5,571               |       |
|   |             | EQUIPMENT  |                  |                           |        | 1                   |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 520C   | 5,572C              |       |
| HTH907 - GENERAL ADMINISTRATION               |             |  |                  |                           |        |                     |       |
| 10.   | 907501      | KAPAHULU HEALTH CENTER, OAHU   |                  |                           |        |                     |       |
|   |             | DESIGN AND CONSTRUCTION FOR THE  |                  |                           |        |                     |       |



## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.  | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|---|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
|   |             |               |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| DEMOLITION OF EXISTING FACILITIES AND GROUND AND SITE IMPROVEMENTS. |             |               |                  |                           |       |                     |       |
|   |             | DESIGN        |                  |                           | 16    |                     |       |
|   |             | CONSTRUCTION  |                  |                           | 74    |                     |       |
|   |             | TOTAL FUNDING | AGS              |                           | 90C   |                     | C     |

## F. SOCIAL SERVICES

## HMS501 - YOUTH SERVICES ADMINISTRATION

## 1. OYS1 HAWAII YOUTH CORRECTIONAL FACILITY COMPLEX, OAHU

PLANS, DESIGN, AND CONSTRUCTION FOR THE DEMOLITION OF EXISTING STAFF HOUSE AND FILL CESSPOOL IN BACK OF HOUSE.

|               |     |  |     |   |
|---------------|-----|--|-----|---|
| PLANS         |     |  | 1   |   |
| DESIGN        |     |  | 1   |   |
| CONSTRUCTION  |     |  | 38  |   |
| TOTAL FUNDING | HMS |  | 40C | C |

## DEF112 - SERVICES TO VETERANS

## 2. OVS931 VETERANS' CEMETERIES UPGRADE AND DEVELOPMENT, STATEWIDE

DESIGN AND CONSTRUCTION FOR THE UPGRADE AND DEVELOPMENT OF VETERANS' CEMETERIES AT VARIOUS NEIGHBOR ISLAND SITES INCLUDING KAUAI, MAUI, MOLOKAI, LANAI, HILO, AND WEST HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |  |        |        |
|---------------|-----|--|--------|--------|
| DESIGN        |     |  | 380    |        |
| CONSTRUCTION  |     |  | 2,280  | 2,600  |
| TOTAL FUNDING | DEF |  | 1,190C | 1,300C |
|               | DEF |  | 1,330N | 1,300N |
|               | DEF |  | 140S   | S      |

## 3. STATE HOMES FOR VETERANS ON MAUI, HAWAII, KAUAI, AND MOLOKAI, STATEWIDE

PLANS AND DESIGN FOR THE DEVELOPMENT OF FACILITIES FOR VETERANS DISABLED BY AGE, DISEASE, OR OTHERWISE WHO BY REASON OF SUCH DISABILITY ARE INCAPABLE OF EARNING A LIVING. ALSO, THIS PROJECT MAY INCLUDE THE FURNISHING OF NURSING CARE FOR SUCH VETERANS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

|               |     |  |      |   |
|---------------|-----|--|------|---|
| PLANS         |     |  | 600  |   |
| DESIGN        |     |  | 300  |   |
| TOTAL FUNDING | DEF |  | 300C | C |
|               | DEF |  | 600N | N |

## 4. HAWAII VETERANS' CENTER, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A HAWAII VETERANS' CENTER TO BE EXPENDED BY THE OAHU VETERANS COUNCIL.

CAPITAL IMPROVEMENT PROJECTS

|  |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|--|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.   | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS. |             |  |                  |                           |       |                     |       |
|  |             | DESIGN   |                  | 500                       |       |                     |       |
|  |             | CONSTRUCTION   |                  | 2,299                     |       |                     |       |
|  |             | EQUIPMENT  |                  | 1                         |       |                     |       |
|  |             | TOTAL FUNDING  | DEF              | 2,800C                    |       |                     | C     |
| HMS229 - HOUSING ASSISTANCE ADMINISTRATION                       |             |  |                  |                           |       |                     |       |
| 5.   | HA1073      | KAMEHAMEHA HOMES, OAHU   |                  |                           |       |                     |       |
|  |             | DESIGN AND CONSTRUCTION FOR THE DEMOLITION AND SITE PREPARATION OF KAMEHAMEHA HOMES TO MAKE WAY FOR A NEW HOUSING DEVELOPMENT. |                  |                           |       |                     |       |
|  |             | DESIGN   |                  | 629                       |       |                     |       |
|  |             | CONSTRUCTION   |                  | 1,911                     |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 2,540N                    |       |                     | N     |
| 6.   | HA1704      | LANAKILA HOMES, HAWAII   |                  |                           |       |                     |       |
|  |             | CONSTRUCTION FOR SITE AND BUILDING IMPROVEMENTS FOR THE LANAKILA HOMES TO MEET CURRENT CODES AND STANDARDS.                    |                  |                           |       |                     |       |
|  |             | CONSTRUCTION   |                  | 3,263                     |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 3,263N                    |       |                     | N     |
| 7.   | HA1705      | WAIMANALO HOMES, OAHU  |                  |                           |       |                     |       |
|  |             | CONSTRUCTION FOR SITE AND BUILDING IMPROVEMENTS AT THE WAIMANALO HOMES TO MEET CURRENT CODES AND STANDARDS.                    |                  |                           |       |                     |       |
|  |             | CONSTRUCTION   |                  | 801                       |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 801N                      |       |                     | N     |
| 8.   | HA1706      | PUNAHELE BUILDING IMPROVEMENTS, HAWAII   |                  |                           |       |                     |       |
|  |             | CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS AT PUNAHELE TO MEET CURRENT CODES AND STANDARDS.                               |                  |                           |       |                     |       |
|  |             | CONSTRUCTION   |                  | 519                       |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 519N                      |       |                     | N     |
| 9.   |             | PUUWAI MOMI BUILDING IMPROVEMENTS, OAHU  |                  |                           |       |                     |       |
|  |             | CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS TO RENOVATE PUUWAI MOMI TO CURRENT CODES AND STANDARDS.                        |                  |                           |       |                     |       |
|  |             | CONSTRUCTION   |                  | 5,147                     |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 5,147N                    |       |                     | N     |
| 10.  |             | KOOLAU VILLAGE BUILDING IMPROVEMENTS, OAHU   |                  |                           |       |                     |       |
|  |             | CONSTRUCTION FOR VARIOUS SITE AND BUILDING IMPROVEMENTS TO RENOVATE KOOLAU VILLAGE TO CURRENT CODES AND STANDARDS.             |                  |                           |       |                     |       |
|  |             | CONSTRUCTION   |                  | 525                       |       |                     |       |
|  |             | TOTAL FUNDING  | HMS              | 525N                      |       |                     | N     |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|------------------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |                  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |

## BUF225 - PRIVATE HOUSING DEVELOPMENT &amp; OWNERSHIP

11. HF9401 ELDERLY HOUSING AT CROWN PROPERTY, PHASE III, OAHU

LAND ACQUISITION AND DESIGN FOR AN  
ELDERLY HOUSING COMPLEX, A COMMUNITY  
ROOM, PARKING STALLS, AND OTHER  
ANCILLARY FACILITIES.

|               |     |  |        |   |
|---------------|-----|--|--------|---|
| LAND          |     |  | 1,400  |   |
| DESIGN        |     |  | 500    |   |
| TOTAL FUNDING | BUF |  | 1,900C | C |

## HHL602 - PLANNG, DEV, MGT &amp; GEN SPPT FOR HAWN HMSTDS

12. LMD004 ANAHOLA UNDERGROUND FUEL TANK REMOVAL, KAUAI

DESIGN AND CONSTRUCTION FOR THE  
REMOVAL OF FUEL STORAGE TANKS. PROJECT  
TO INCLUDE TESTING, REMOVAL AND  
DISPOSAL, AND REMEDIATION.

|               |     |  |      |   |
|---------------|-----|--|------|---|
| DESIGN        |     |  | 2    |   |
| CONSTRUCTION  |     |  | 98   |   |
| TOTAL FUNDING | HHL |  | 100C | C |

13. LMD003 ANAHOLA DRAINAGE DITCHES, KAUAI

DESIGN AND CONSTRUCTION FOR DRAINAGE  
DITCHES TO INCLUDE THE REMOVAL OF SILT  
AND OVERGROWTH AND THE INSTALLATION OF  
A CONCRETE CHANNEL.

|               |     |  |      |   |
|---------------|-----|--|------|---|
| DESIGN        |     |  | 10   |   |
| CONSTRUCTION  |     |  | 150  |   |
| TOTAL FUNDING | HHL |  | 160C | C |

## G. FORMAL EDUCATION

## EDN100 - SCHOOL BASED BUDGETING

1. 005 LUMP SUM CIP-ARCHITECTURAL BARRIERS AND SPECIAL  
EDUCATION CLASSROOMS, STATEWIDE

DESIGN AND CONSTRUCTION FOR THE  
PROVISION OF RAMPS, ELEVATORS, AND OTHER  
CORRECTIVE MEASURES FOR ACCESSIBILITY OF  
SCHOOL FACILITIES TO HANDICAPPED PERSONS.

|               |     |  |        |        |
|---------------|-----|--|--------|--------|
| DESIGN        |     |  | 300    | 300    |
| CONSTRUCTION  |     |  | 3,700  | 3,700  |
| TOTAL FUNDING | AGS |  | 4,000B | 4,000B |

2. 010 LUMP SUM CIP-ASBESTOS REMOVAL IN SCHOOL BUILDINGS,  
STATEWIDE

DESIGN AND CONSTRUCTION FOR CORRECTION,  
IMPROVEMENT, AND RENOVATION TO ALL  
EXISTING SCHOOL BUILDINGS, STATEWIDE.

|               |     |  |      |      |
|---------------|-----|--|------|------|
| DESIGN        |     |  | 50   | 50   |
| CONSTRUCTION  |     |  | 450  | 450  |
| TOTAL FUNDING | AGS |  | 500B | 500B |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 3.       |             | LUMP SUM CIP-CAPITAL IMPROVEMENTS PROGRAM COSTS, STATEWIDE  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS. |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 148                       |       | 148                 |       |
|          |             | DESIGN  |                  | 1                         |       | 1                   |       |
|          |             | CONSTRUCTION  |                  | 1                         |       | 1                   |       |
|          |             | TOTAL FUNDING   | EDN              | 150B                      |       | 150B                |       |
| 4. 008   |             | LUMP SUM CIP-FIRE PROTECTION, CODE VIOLATIONS, AND ALARM SYSTEMS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR FIRE PROTECTION SYSTEMS AND/OR CORRECTIVE MEASURES TO ADDRESS FIRE CODE VIOLATIONS TO MEET COUNTY FIRE PROTECTION STANDARDS AND/OR FIRE CODE VIOLATIONS.  |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 100                       |       | 100                 |       |
|          |             | CONSTRUCTION  |                  | 650                       |       | 650                 |       |
|          |             | TOTAL FUNDING   | AGS              | 750B                      |       | 750B                |       |
| 5. 003   |             | LUMP SUM CIP-MASTER PLANS, SITE STUDIES AND MINOR LAND ACQUISITIONS, STATEWIDE  |                  |                           |       |                     |       |
|          |             | PLANS AND LAND ACQUISITION FOR MASTER PLANNING, SITE SELECTION, PRE-LAND ACQUISITION STUDIES, ACQUISITION OF SMALL PARCELS, FEASIBILITY STUDIES TO MEET FUTURE AND UNFORESEEN NEEDS AND CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND EXPENDITURE PLANNING.                                  |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 745                       |       | 750                 |       |
|          |             | LAND  |                  | 5                         |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 750B                      |       | 750B                |       |
| 6. 002   |             | LUMP SUM CIP-MINOR RENOVATIONS TO BUILDINGS AND SCHOOL SITES, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MINOR ADDITIONS, RENOVATIONS, AND IMPROVEMENTS TO BUILDINGS AND SCHOOL SITES.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 150                       |       | 150                 |       |
|          |             | CONSTRUCTION  |                  | 1,600                     |       | 1,600               |       |
|          |             | EQUIPMENT   |                  | 100                       |       | 100                 |       |
|          |             | TOTAL FUNDING   | AGS              | 1,850B                    |       | 1,850B              |       |
| 7. 011   |             | LUMP SUM CIP-PROJECT ADJUSTMENT FUND, STATEWIDE   |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DEPARTMENT OF EDUCATION PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS PROJECT.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 200                       |       | 200                 |       |
|          |             | CONSTRUCTION   |                  | 1,750                     |       | 1,750               |       |
|          |             | EQUIPMENT  |                  | 50                        |       | 50                  |       |
|          |             | TOTAL FUNDING  | AGS              | 2,000B                    |       | 2,000B              |       |
| 8.       | 001         | LUMP SUM CIP-RELOCATION OR CONSTRUCTION OF TEMPORARY FACILITIES, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RELOCATION OR CONSTRUCTION OF TEMPORARY FACILITIES EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG SCHOOLS, PROGRAM DEMANDS, UNFORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES AND/OR TRAILER PORTABLES WHILE SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION/REPAIR. |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 250                       |       | 250                 |       |
|          |             | CONSTRUCTION   |                  | 5,500                     |       | 4,500               |       |
|          |             | EQUIPMENT  |                  | 250                       |       | 250                 |       |
|          |             | TOTAL FUNDING  | AGS              | 6,000B                    |       | 5,000B              |       |
| 9.       | 009         | LUMP SUM CIP-RENOVATIONS FOR NOISE ABATEMENT, STATEWIDE  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR CORRECTIVE MEASURES TO SCHOOLS AFFECTED BY EXCESSIVE NOISE AND VENTILATION PROBLEMS.   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 50                        |       | 50                  |       |
|          |             | CONSTRUCTION   |                  | 450                       |       | 450                 |       |
|          |             | TOTAL FUNDING  | AGS              | 500B                      |       | 500B                |       |
| 10.      | 014         | LUMP SUM CIP-REQUIREMENTS FOR HEALTH AND SAFETY/LAWS AND ORDINANCES, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO SCHOOL FACILITIES AND GROUNDS TO MEET HEALTH, SAFETY REQUIREMENTS/LAWS AND ORDINANCES.   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 50                        |       | 50                  |       |
|          |             | CONSTRUCTION   |                  | 450                       |       | 450                 |       |
|          |             | TOTAL FUNDING  | AGS              | 500B                      |       | 500B                |       |
| 11.      | 013         | LUMP SUM CIP-SPECIAL EDUCATION CLASSROOMS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR CONSTRUCTION OF CLASSROOMS FOR SPECIAL EDUCATION.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 25                        |       |                     |       |
|          |             | CONSTRUCTION   |                  | 220                       |       |                     |       |
|          |             | EQUIPMENT  |                  | 5                         |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 250B                      |       |                     | B     |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 12.      | 012         | LUMP SUM CIP-TELECOMMUNICATIONS & POWER INFRASTRUCTURE IMPROVEMENTS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS AND POWER INFRASTRUCTURE IMPROVEMENTS.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 50                        |       | 50                  |       |
|          |             | CONSTRUCTION   |                  | 400                       |       | 400                 |       |
|          |             | EQUIPMENT  |                  | 50                        |       | 50                  |       |
|          |             | TOTAL FUNDING  | AGS              | 500B                      |       | 500B                |       |
| 13.      | 402004      | CASTLE HIGH SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN EIGHT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 225                       |       |                     |       |
|          |             | CONSTRUCTION   |                  |                           |       | 3,020               |       |
|          |             | EQUIPMENT  |                  |                           |       | 80                  |       |
|          |             | TOTAL FUNDING  | AGS              | 225C                      |       | 3,100C              |       |
| 14.      | 343006      | EWA GENTRY ELEMENTARY SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR THE FIRST AND SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                        |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 4,525                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 125                       |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 4,650B                    |       |                     | B     |
| 15.      | 508001      | HOOKENA ELEMENTARY SCHOOL, HAWAII  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 5,970                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 30                        |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 6,000B                    |       |                     | B     |
| 16.      | 625001      | SAMUEL ENOKA KALAMA INTERMEDIATE SCHOOL, MAUI  |                  |                           |       |                     |       |
|          |             | DESIGN FOR A NEW LIBRARY FACILITY; RENOVATE TEMPORARY LIBRARY FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.         |                  |                           |       |                     |       |
|          |             | DESIGN   |                  | 215                       |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 20B                       |       |                     | B     |
|          |             |  | AGS              | 195C                      |       |                     | C     |
| 17.      | 332005      | KALEIOPUU ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR ADMINISTRATION/LIBRARY BUILDING(S) AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY SPACES INTO CLASSROOMS. |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 3,200                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 50                        |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 3,250B                    |       |                     | B     |
| 18.      | 342006      | KAMAILE ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR NEW ADMINISTRATION/LIBRARY BUILDINGS; RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY SPACES FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                      |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 3,200                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 50                        |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 3,250C                    |       |                     | C     |
| 19.      | 340009      | KANOELANI ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR ADMINISTRATION/LIBRARY BUILDING(S) AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY SPACES INTO CLASSROOMS. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 3,200                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 50                        |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 3,250B                    |       |                     | B     |
| 20.      | 717002      | KAPAA INTERMEDIATE SCHOOL (NEW), KAUAI   |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR THE FIRST INCREMENT OF THE NEW SCHOOL. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 19,850                    |       | 12,000              |       |
|          |             | EQUIPMENT  |                  | 150                       |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 20,000B                   |       | 12,000B             |       |
| 21.      | 347003      | KAPOLEI ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR THE THIRD INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; RENOVATION OF TEMPORARY DINING ROOM INTO CLASSROOMS.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION   |                  | 4,125                     |       |                     |       |
|          |             | EQUIPMENT  |                  | 100                       |       |                     |       |
|          |             | TOTAL FUNDING  | AGS              | 4,225B                    |       |                     | B     |
| 22.      | 347005      | KAPOLEI ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE FOURTH INCREMENT; RENOVATION OF TEMPORARY FACILITIES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS;  |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE   | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|--|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
|             |                | EQUIPMENT AND APPURTENANCES.   |                     |                           |             |                           |             |
|             |                | DESIGN   |                     |                           | 225         |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 3,350                     |             |
|             |                | EQUIPMENT  |                     |                           |             | 50                        |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | 225B        | 3,400B                    |             |
| 23.         | 718002         | KAUAI INTERMEDIATE SCHOOL (NEW), KAUAI   |                     |                           |             |                           |             |
|             |                | CONSTRUCTION AND EQUIPMENT FOR THE FIRST INCREMENT OF THE NEW SCHOOL. PROJECT TO INCLUDE EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.      |                     |                           |             |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 4,350                     |             |
|             |                | EQUIPMENT  |                     |                           |             | 150                       |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | B           | 4,500B                    |             |
| 24.         | 538003         | KEAAU HIGH SCHOOL, HAWAII  |                     |                           |             |                           |             |
|             |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE FIRST INCREMENT OF THE NEW SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                |                     |                           |             |                           |             |
|             |                | DESIGN   |                     |                           | 1,500       |                           |             |
|             |                | CONSTRUCTION   |                     |                           | 3,685       | 13,850                    |             |
|             |                | EQUIPMENT  |                     |                           |             | 150                       |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | 5,185B      | 14,000B                   |             |
| 25.         | 537003         | KEAAU II ELEMENTARY SCHOOL, HAWAII   |                     |                           |             |                           |             |
|             |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE FIRST INCREMENT; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.                                  |                     |                           |             |                           |             |
|             |                | DESIGN   |                     |                           | 725         |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 11,600                    |             |
|             |                | EQUIPMENT  |                     |                           |             | 150                       |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | 725B        | 11,750B                   |             |
| 26.         | 536002         | KEALAKEHE HIGH SCHOOL, HAWAII  |                     |                           |             |                           |             |
|             |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND INCREMENT; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.                                     |                     |                           |             |                           |             |
|             |                | DESIGN   |                     |                           | 975         |                           |             |
|             |                | CONSTRUCTION   |                     |                           |             | 15,350                    |             |
|             |                | EQUIPMENT  |                     |                           |             | 150                       |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | 975B        | 15,500B                   |             |
| 27.         | 534006         | KEONEPOKO ELEMENTARY SCHOOL, HAWAII  |                     |                           |             |                           |             |
|             |                | CONSTRUCTION AND EQUIPMENT FOR CAFETERIA WITH PREPARATION KITCHEN; COVERED WALKWAYS; PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                     |                           |             |                           |             |
|             |                | CONSTRUCTION   |                     |                           | 2,275       |                           |             |
|             |                | EQUIPMENT  |                     |                           | 75          |                           |             |
|             |                | TOTAL FUNDING  | AGS                 |                           | 2,350C      |                           | C           |



## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 28.      | 630002      | KIHEI II ELEMENTARY SCHOOL, MAUI  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION EQUIPMENT  |                  | 5,224                     | 1     |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 4,725B                    |       |                     | B     |
|          |             |   | AGS              | 500C                      |       |                     | C     |
| 29.      | 628005      | KING KEKAULIKE HIGH SCHOOL, MAUI  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR THE THIRD INCREMENT OF SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION EQUIPMENT  |                  | 12,175                    | 75    |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 12,250B                   |       |                     | B     |
| 30.      | 628008      | KING KEKAULIKE HIGH SCHOOL, MAUI  |                  |                           |       |                     |       |
|          |             | DESIGN FOR FOURTH INCREMENT OF SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  |                           |       |                     | 650   |
|          |             | TOTAL FUNDING   | AGS              |                           | B     |                     | 650B  |
| 31.      | 611001      | KULA ELEMENTARY SCHOOL, MAUI  |                  |                           |       |                     |       |
|          |             | DESIGN FOR A SIX CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 175                       |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 175C                      |       |                     | C     |
| 32.      | 624009      | LAHAINA INTERMEDIATE SCHOOL, MAUI   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PHYSICAL EDUCATION LOCKER/SHOWER FACILITY AND PLAYFIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.     |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 225                       |       |                     |       |
|          |             | CONSTRUCTION EQUIPMENT  |                  |                           |       | 2,340               |       |
|          |             |   |                  |                           |       | 10                  |       |
|          |             | TOTAL FUNDING   | AGS              | 225C                      |       | 2,350C              |       |
| 33.      | 214001      | MAKALAPA ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN FOR AN ADMINISTRATION BUILDING; RENOVATION OF TEMPORARY ADMINISTRATION OFFICES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 225                       |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 225C                      |       |                     | C     |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
| 34.      | 626008      | MAUI WAENA INTERMEDIATE SCHOOL, MAUI  |                  |                           |        |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR A SIX CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION  |                  |                           |        | 2,300               |       |
|          |             | EQUIPMENT   |                  |                           |        | 50                  |       |
|          |             | TOTAL FUNDING   | AGS              |                           | C      | 2,350C              |       |
| 35.      | 215009      | MILILANI HIGH SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FOUR CLASSROOM ADDITION; RENOVATE CLASSROOMS IN BUILDING B; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 25     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 2,050  |                     |       |
|          |             | EQUIPMENT   |                  |                           | 50     |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 2,125B |                     | B     |
| 36.      | 245002      | MILILANI INTERMEDIATE SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN FOR FIRST INCREMENT. PROJECT TO INCLUDE CLASSROOMS, ADMINISTRATION, LIBRARY, CAFETORIUM, PLAY COURT, PLAY FIELD, PHYSICAL EDUCATION LOCKERS AND SHOWERS, CHORUS/BAND ROOM, PARKING, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 975    |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 975B   |                     | B     |
| 37.      | 335006      | NANAKULI ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A(N) ADMINISTRATION/LIBRARY BUILDING(S); RENOVATION OF TEMPORARY ADMINISTRATION/LIBRARY FACILITIES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 225    |                     |       |
|          |             | CONSTRUCTION  |                  |                           |        | 3,200               |       |
|          |             | EQUIPMENT   |                  |                           |        | 50                  |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 225C   | 3,250C              |       |
| 38.      | 627005      | PRINCESS NAHIENAENA ELEMENTARY SCHOOL, MAUI   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR A CAFETORIUM; RENOVATION OF TEMPORARY FACILITIES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION  |                  |                           |        | 2,285               |       |
|          |             | EQUIPMENT   |                  |                           |        | 65                  |       |
|          |             | TOTAL FUNDING   | AGS              |                           | C      | 2,350C              |       |
| 39.      | 327002      | WAI'AU ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |

CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |        |                     |        |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|--------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F  |
|          |             | DESIGN FOR NEW ADMINISTRATION/LIBRARY BUILDING(S); RENOVATION OF TEMPORARY FACILITIES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 225    |                     |        |
|          |             | TOTAL FUNDING  | AGS              |                           | 225C   |                     | C      |
| 40.      | 348002      | WAIKELE ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |        |
|          |             | CONSTRUCTION AND EQUIPMENT FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |        |
|          |             | CONSTRUCTION   |                  |                           | 1,900  |                     | 8,350  |
|          |             | EQUIPMENT  |                  |                           |        |                     | 175    |
|          |             | TOTAL FUNDING  | AGS              |                           | 1,900B |                     | 8,525B |
| 41.      | 539002      | WAIKOLOA ELEMENTARY SCHOOL, HAWAII   |                  |                           |        |                     |        |
|          |             | CONSTRUCTION AND EQUIPMENT FOR THE SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |        |
|          |             | CONSTRUCTION   |                  |                           | 4,350  |                     |        |
|          |             | EQUIPMENT  |                  |                           | 100    |                     |        |
|          |             | TOTAL FUNDING  | AGS              |                           | 4,450B |                     | B      |
| 42.      | 330007      | WAIPAHU HIGH SCHOOL, OAHU  |                  |                           |        |                     |        |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 225    |                     |        |
|          |             | CONSTRUCTION   |                  |                           |        |                     | 3,125  |
|          |             | EQUIPMENT  |                  |                           |        |                     | 50     |
|          |             | TOTAL FUNDING  | AGS              |                           | 225B   |                     | 3,175B |
| 43.      |             | AIEA HIGH SCHOOL, OAHU   |                  |                           |        |                     |        |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MULTI-PURPOSE FACILITY FOR AIEA HIGH SCHOOL.   |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 160    |                     |        |
|          |             | CONSTRUCTION   |                  |                           | 1,514  |                     |        |
|          |             | EQUIPMENT  |                  |                           | 1      |                     |        |
|          |             | TOTAL FUNDING  | AGS              |                           | 1,675C |                     | C      |
| 44.      |             | AIKAHI ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |        |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION OF THE LIBRARY AND CONSTRUCTION OF AN ADMINISTRATION BUILDING TO INCLUDE SPECIAL EDUCATION ITINERANT ROOM, PCNC, GROUND AND SITE IMPROVEMENTS; RENOVATION OF TEMPORARY ADMINISTRATION FACILITY TO CLASSROOMS; EQUIPMENT AND APPURTENANCES. |                  |                           |        |                     |        |
|          |             | DESIGN   |                  |                           | 115    |                     |        |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | CONSTRUCTION EQUIPMENT  |                  |                           | 1,684  |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 1      | 1,800C              | C     |
| 45.      |             | AINA HAINA ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 10     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 90     |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 100C   |                     | C     |
| 46.      |             | HENRY PERRINE BALDWIN HIGH SCHOOL, MAUI   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR A GYMNASIUM; GROUND AND SITE IMPROVEMENTS; PARKING; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 5,485  |                     |       |
|          |             | EQUIPMENT   |                  |                           | 15     |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 5,500C |                     | C     |
| 47.      |             | JAMES CAMPBELL HIGH SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF A NEW GYMNASIUM FLOOR.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 55     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 399    |                     |       |
|          |             | EQUIPMENT   |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 455C   |                     | C     |
| 48.      |             | GOVERNOR SANFORD B. DOLE INTERMEDIATE SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF CLASSROOM(S) IN THE SHOP BUILDING TO CREATE AN INSTRUCTIONAL TECHNOLOGY CENTER FOR WEST HONOLULU SCHOOLS. PROJECT TO INCLUDE APPROPRIATE SPACE FOR CUSTODIAL AREAS. |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 40     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 149    |                     |       |
|          |             | EQUIPMENT   |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 190C   |                     | C     |
| 49.      |             | GOVERNOR WALLACE RIDER FARRINGTON HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF VOCATIONAL EDUCATION FACILITIES.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 50     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 299    |                     |       |
|          |             | EQUIPMENT   |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 350C   |                     | C     |
| 50.      |             | HAHAIONE ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR   |                  |                           |        |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | THE INSTALLATION OF RETRACTABLE WALLS IN BUILDING F; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                            |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 5     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 19    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 25C   |                     | C     |
| 51.      |             | HOKULANI ELEMENTARY SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IMPROVEMENTS TO THE SCHOOL LIBRARY; EQUIPMENT AND APPURTENANCES.                              |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 45    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 182   |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 227C  |                     | C     |
| 52.      |             | WILLIAM P. JARRETT INTERMEDIATE SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS AND POWER INFRASTRUCTURE IMPROVEMENTS.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 10    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 74    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 85C   |                     | C     |
| 53.      |             | KAEWAI ELEMENTARY SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS AND POWER INFRASTRUCTURE IMPROVEMENTS.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 70    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 629   |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 700C  |                     | C     |
| 54.      |             | KAILUA HIGH SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR GYMNASIUM BLEACHERS AT KAILUA HIGH SCHOOL.   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 60    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 284   |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 345C  |                     | C     |
| 55.      |             | KAIMUKI HIGH SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE P.E. LOCKER ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 70    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 629   |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 700C  |                     | C     |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 56.      |             | HENRY J. KAISER HIGH SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR RESTROOM FACILITIES IN THE VICINITY OF THE BASEBALL FIELD; GROUND AND SITE IMPROVEMENTS.                                     |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 14    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 73    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 87C   |                     | C     |
| 57.      |             | KALANI HIGH SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MULTIPURPOSE CLASSROOM FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                    |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 30    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 115   |                     |       |
|          |             | EQUIPMENT  |                  |                           | 8     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 153C  |                     | C     |
| 58.      |             | KALIHI KAI ELEMENTARY SCHOOL, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                   |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 3     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 1     |                     |       |
|          |             | EQUIPMENT  |                  |                           | 101   |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 105C  |                     | C     |
| 59.      |             | KAMILOIKI ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF CATTLE GATES AT THE ENTRANCE TO KAMILOIKI STREET.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 5     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 10    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 15C   |                     | C     |
| 60.      |             | KAUMANA ELEMENTARY SCHOOL, HAWAII  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A COVERED PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 60    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 539   |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 600C  |                     | C     |
| 61.      |             | KOKO HEAD ELEMENTARY SCHOOL, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE EXPANSION OF SCHOOL PARKING FACILITIES; ROADWAY IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 11    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 79    |                     |       |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | TOTAL FUNDING  | AGS              |                           | 90C    |                     | C     |
| 62.      |             | KONAWAENA HIGH AND INTERMEDIATE SCHOOL, HAWAII   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ALL-WEATHERIZED TRACK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                     |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 140    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 2,340  |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 2,481C |                     | C     |
| 63.      |             | LEILEHUA HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF EXISTING CLASSROOMS TO SCIENCE CLASSROOMS TO MEET THE NEED FOR ADDITIONAL SCIENCE CREDIT REQUIREMENTS. |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 28     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 260    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 6      |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 294C   |                     | C     |
| 64.      |             | MILILANI HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ALL-WEATHERIZED TRACK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                     |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 200    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 799    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 1,000C |                     | C     |
| 65.      |             | MOANALUA HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN FOR AN AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 250    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 250C   |                     | C     |
| 66.      | 618002      | MOLOKAI HIGH SCHOOL, MOLOKAI   |                  |                           |        |                     |       |
|          |             | DESIGN FOR AN EIGHT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 225    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 225C   |                     | C     |
| 67.      |             | NIU VALLEY ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR RESTROOM FACILITIES AT THE SCHOOL LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.                                |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 20     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 60     |                     |       |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|---|------------------|---------------------------|--------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | TOTAL FUNDING   | AGS              |                           | 80C    |                     | C     |
| 68.      |             | NOELANI ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF THE ADMINISTRATION BUILDING TO INCLUDE SPACE FOR THE PCNC, A+, AND OTHER SCHOOL PROGRAMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 50     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 149    |                     |       |
|          |             | EQUIPMENT   |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 200C   |                     | C     |
| 69.      |             | NUUANU ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IMPROVEMENTS TO THE SCHOOL LIBRARY; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 40     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 130    |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 170C   |                     | C     |
| 70.      |             | PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR DRIVEWAY AND PARKING IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 10     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 140    |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 150C   |                     | C     |
| 71.      |             | POHAKEA ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY FACILITY; RENOVATION OF TEMPORARY FACILITY INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 85     |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 1,082  |                     |       |
|          |             | EQUIPMENT   |                  |                           | 65     |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 1,232C |                     | C     |
| 72.      |             | PUOHALA ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR PERMANENT ROOM PARTITIONS.  |                  |                           |        |                     |       |
|          |             | DESIGN  |                  |                           | 5      |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 45     |                     |       |
|          |             | TOTAL FUNDING   | AGS              |                           | 50C    |                     | C     |
| 73.      |             | WAIAKEA INTERMEDIATE SCHOOL, HAWAII   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR A COVERED PLAYCOURT; GROUND AND SITE  |                  |                           |        |                     |       |



## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|--|------------------|---------------------------|--------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 55     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 540    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 595C   |                     | C     |
| 74.      | 235003      | WAIALUA INTERMEDIATE AND HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION OF CAFETERIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.   |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 1      |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 2,400  |                     |       |
|          |             | EQUIPMENT  |                  |                           | 121    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 2,522C |                     | C     |
| 75.      |             | WAIALUA INTERMEDIATE AND HIGH SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A SPRINKLER SYSTEM FOR THE BASEBALL FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 10     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 90     |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 100C   |                     | C     |
| 76.      |             | WAIHEE ELEMENTARY SCHOOL, MAUI   |                  |                           |        |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO TEMPORARY FACILITIES FOR WAIHEE ELEMENTARY SCHOOL.   |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 20     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 179    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 1      |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 200C   |                     | C     |
| 77.      |             | WAILUPE VALLEY ELEMENTARY SCHOOL, OAHU   |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR AIR CONDITIONING IMPROVEMENTS TO THE SCHOOL LIBRARY; EQUIPMENT AND APPURTENANCES.  |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 40     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 130    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 170C   |                     | C     |
| 78.      |             | WAIPAHU ELEMENTARY SCHOOL, OAHU  |                  |                           |        |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR CORRECTIVE MEASURES TO THE EXCESSIVE NOISE AND VENTILLATION PROBLEMS IN AFFECTED CLASSROOMS INCLUDING THE INSTALLATION OF AIR CONDITIONING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. |                  |                           |        |                     |       |
|          |             | DESIGN   |                  |                           | 70     |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 330    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 400C   |                     | C     |

## CAPITAL IMPROVEMENT PROJECTS

|                           |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|---------------------------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.                  | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| EDN407 - PUBLIC LIBRARIES |             |   |                  |                           |       |                     |       |
| 79.                       | 800-12      | HEALTH AND SAFETY REQUIREMENTS, STATEWIDE   |                  |                           |       |                     |       |
|                           |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HEALTH AND SAFETY PROJECTS AT LIBRARY FACILITIES. PROJECT TO INCLUDE RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, REMOVAL OF HAZARDOUS MATERIALS, REMOVAL OF ARCHITECTURAL BARRIERS, FIRE PROTECTION, IMPROVEMENTS TO BUILDINGS AND GROUNDS, PROVISIONS FOR ENVIRONMENTAL CONTROLS, AND THE REPLACEMENT OF HAZARDOUS FACILITIES. |                  |                           |       |                     |       |
|                           |             | PLANS   |                  |                           |       | 58                  |       |
|                           |             | DESIGN  |                  |                           |       | 292                 |       |
|                           |             | CONSTRUCTION  |                  |                           |       | 244                 |       |
|                           |             | EQUIPMENT   |                  |                           |       | 1                   |       |
|                           |             | TOTAL FUNDING   | AGS              |                           |       | 595C                | C     |
| 80.                       | 037-1       | WAIPAHU PUBLIC LIBRARY, OAHU  |                  |                           |       |                     |       |
|                           |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACCOUSTICAL CONTROLS.  |                  |                           |       |                     |       |
|                           |             | DESIGN  |                  |                           |       | 1                   |       |
|                           |             | CONSTRUCTION  |                  |                           |       | 1                   |       |
|                           |             | EQUIPMENT   |                  |                           |       | 277                 |       |
|                           |             | TOTAL FUNDING   | AGS              |                           |       | 279C                | C     |
| 81.                       | 109-1       | MANOA PUBLIC LIBRARY, OAHU  |                  |                           |       |                     |       |
|                           |             | LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION OF THE MANOA PUBLIC LIBRARY. PROJECT TO INCLUDE BUT NOT LIMITED TO, TEMPERATURE, HUMIDITY, ACCOUSTICAL CONTROLS, AND RELATED PARKING IMPROVEMENTS.  |                  |                           |       |                     |       |
|                           |             | LAND  |                  |                           |       | 1                   |       |
|                           |             | DESIGN  |                  |                           |       | 497                 |       |
|                           |             | CONSTRUCTION  |                  |                           |       | 1                   |       |
|                           |             | EQUIPMENT   |                  |                           |       | 1                   |       |
|                           |             | TOTAL FUNDING   | AGS              |                           |       | 500C                | C     |
| 82.                       | 059-3       | KIHEI PUBLIC LIBRARY, MAUI  |                  |                           |       |                     |       |
|                           |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACCOUSTICAL CONTROLS.  |                  |                           |       |                     |       |
|                           |             | DESIGN  |                  |                           |       | 1                   |       |
|                           |             | CONSTRUCTION  |                  |                           |       | 1                   |       |
|                           |             | EQUIPMENT   |                  |                           |       | 277                 |       |
|                           |             | TOTAL FUNDING   | AGS              |                           |       | 279C                | C     |

## UOH100 - UNIVERSITY OF HAWAII, MANOA

83. M71 UHM, UNIVERSITY HOUSE, OAHU

PLANS, DESIGN, CONSTRUCTION, AND

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
|          |             |   |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | EQUIPMENT FOR THE UNIVERSITY HOUSE, A MULTIFUNCTIONAL FACILITY TO BE LOCATED ON THE LAW SCHOOL PARKING LOT.   |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 1                         |       |                     |       |
|          |             | DESIGN  |                  | 704                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 6,607                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 1,000                     |       |                     |       |
|          |             | TOTAL FUNDING   | UOH              | 8,312R                    |       |                     | R     |
| 84.      | M72         | UHM, FOOD SERVICE FACILITY, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE HAMILTON SNACK BAR.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 1                         |       |                     |       |
|          |             | CONSTRUCTION  |                  | 388                       |       |                     |       |
|          |             | EQUIPMENT   |                  | 1                         |       |                     |       |
|          |             | TOTAL FUNDING   | UOH              | 390B                      |       |                     | B     |
| 85.      | 050         | UHM, SPECIAL EVENTS ARENA AND ATHLETICS SUPPORT FACILITIES, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE SPECIAL EVENTS ARENA AND ATHLETICS SUPPORT FACILITIES. ALSO, FOR THE DEMOLITION OF EXISTING FACILITIES AND RELOCATION AND RENOVATION OF FACILITIES FOR PROGRAMS AFFECTED BY THIS PROJECT. |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 466                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 5,871                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 414                       |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 3,375R                    |       |                     | R     |
|          |             |   | AGS              | 3,376W                    |       |                     | W     |
| 86.      | 175         | UHM, COCONUT ISLAND MARINE RESEARCH LABORATORY, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE COCONUT ISLAND MARINE RESEARCH LABORATORY.   |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 322                       |       |                     |       |
|          |             | DESIGN  |                  | 426                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 6,865                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 1                         |       |                     |       |
|          |             | TOTAL FUNDING   | UOH              | 7,614R                    |       |                     | R     |
| 87.      | 532         | UHM, INSTITUTE FOR ASTRONOMY, UNIVERSITY PARK FACILITY IN HILO, HAWAII  |                  |                           |       |                     |       |
|          |             | CONSTRUCTION AND EQUIPMENT FOR A HEADQUARTER FACILITY FOR INSTITUTE FOR ASTRONOMY PERSONNEL AT THE UNIVERSITY PARK IN HILO.   |                  |                           |       |                     |       |
|          |             | CONSTRUCTION  |                  | 6,859                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 1                         |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 6,860C                    |       |                     | C     |
| 88.      | 694         | UHM, REPLACEMENT OF FUEL STORAGE TANKS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF FUEL STORAGE TANKS.  |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 71                        |       |                     |       |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                            | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|-------------------------------------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|                                     |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|                                     |             | CONSTRUCTION EQUIPMENT   |                  | 661                       |       |                     |       |
|                                     |             | TOTAL FUNDING  | AGS              | 77                        |       |                     |       |
|                                     |             |  |                  | 809C                      |       |                     | C     |
| 89.                                 |             | UHM, HAWAII HALL, OAHU   |                  |                           |       |                     |       |
|                                     |             | PLANS FOR A PROJECT DEVELOPMENT REPORT FOR THE RENOVATION OF HAWAII HALL.  |                  |                           |       |                     |       |
|                                     |             | PLANS  |                  | 200                       |       |                     |       |
|                                     |             | TOTAL FUNDING  | AGS              | 200C                      |       |                     | C     |
| 90.                                 |             | UHM, COCONUT ISLAND LONG RANGE DEVELOPMENT PLAN, OAHU  |                  |                           |       |                     |       |
|                                     |             | PLANS FOR A LONG RANGE DEVELOPMENT PLAN FOR COCONUT ISLAND.  |                  |                           |       |                     |       |
|                                     |             | PLANS  |                  | 300                       |       |                     |       |
|                                     |             | TOTAL FUNDING  | UOH              | 300C                      |       |                     | C     |
| 91.                                 |             | UHM, KULA AGRICULTURAL EXPERIMENT STATION, MAUI  |                  |                           |       |                     |       |
|                                     |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION/ADDITION TO LABORATORY FACILITIES, RENOVATIONS TO EXISTING FACILITIES, AND OTHER RELATED IMPROVEMENTS FOR THE KULA AGRICULTURAL EXPERIMENT STATION. |                  |                           |       |                     |       |
|                                     |             | PLANS  |                  | 1                         |       |                     |       |
|                                     |             | DESIGN   |                  | 27                        |       |                     |       |
|                                     |             | CONSTRUCTION   |                  | 271                       |       |                     |       |
|                                     |             | EQUIPMENT  |                  | 1                         |       |                     |       |
|                                     |             | TOTAL FUNDING  | UOH              | 300C                      |       |                     | C     |
| 92.                                 |             | UHM, WOMEN'S SOFTBALL STADIUM, OAHU  |                  |                           |       |                     |       |
|                                     |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A WOMEN'S SOFTBALL STADIUM. PROJECT TO INCLUDE A GRANDSTAND, FENCING, AND OTHER APPURTENANCES AT THE MAKAI CAMPUS.  |                  |                           |       |                     |       |
|                                     |             | PLANS  |                  | 1                         |       |                     |       |
|                                     |             | DESIGN   |                  | 49                        |       |                     |       |
|                                     |             | CONSTRUCTION   |                  | 249                       |       |                     |       |
|                                     |             | EQUIPMENT  |                  | 1                         |       |                     |       |
|                                     |             | TOTAL FUNDING  | AGS              | 300C                      |       |                     | C     |
| UOH210 - UNIVERSITY OF HAWAII, HILO |             |  |                  |                           |       |                     |       |
| 93.                                 | 440         | UHH, UNIVERSITY PARK, PHASE II, HAWAII   |                  |                           |       |                     |       |
|                                     |             | DESIGN AND CONSTRUCTION FOR INFRASTRUCTURE AND OTHER IMPROVEMENTS AT THE UHH MAUKA CAMPUS SITE TO ACCOMMODATE THE DEVELOPMENT AND EXPANSION OF UHH'S STUDENT HOUSING, ACADEMIC AND RESEARCH PROGRAMS.            |                  |                           |       |                     |       |
|                                     |             | DESIGN   |                  | 442                       |       |                     |       |
|                                     |             | CONSTRUCTION   |                  | 7,191                     |       |                     |       |
|                                     |             | TOTAL FUNDING  | AGS              | 7,633C                    |       |                     | C     |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                                   | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |         |
|--|-------------|---|------------------|---------------------------|--------|---------------------|---------|
|  |             |   |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F   |
| 94.  |             | UHH, KALAKAUA MARINE EDUCATION CENTER, HAWAII   |                  |                           |        |                     |         |
|  |             | PLANS AND DESIGN FOR THE KALAKAUA MARINE EDUCATION CENTER.  |                  |                           |        |                     |         |
|  |             | PLANS   |                  |                           | 99     |                     |         |
|  |             | DESIGN  |                  |                           | 1      |                     |         |
|  |             | TOTAL FUNDING   | AGS              |                           | 100C   |                     | C       |
| <b>UOH300 - HONOLULU COMMUNITY COLLEGE</b> |             |   |                  |                           |        |                     |         |
| 95.  |             | HON, SITE IMPROVEMENTS, PHASE I, OAHU   |                  |                           |        |                     |         |
|  |             | DESIGN AND CONSTRUCTION FOR THE EXPANSION OF PARKING AREA #4, DEMOLITION, CLEARING, GRADING, LANDSCAPING, ROADWAYS, WALKWAY, LIGHTING AND UTILITIES.  |                  |                           |        |                     |         |
|  |             | DESIGN  |                  |                           | 34     |                     |         |
|  |             | CONSTRUCTION  |                  |                           |        |                     | 497     |
|  |             | TOTAL FUNDING   | AGS              |                           | 34C    |                     | 497C    |
| 96.  |             | HON, HUMAN RESOURCES LABORATORY AND INCINERATOR DEMOLITION, OAHU  |                  |                           |        |                     |         |
|  |             | DESIGN AND CONSTRUCTION FOR NEW CLASSROOMS, LABORATORIES, FACULTY OFFICES AND SUPPORT FACILITIES FOR THE HUMAN RESOURCES PROGRAM INCLUDING EARLY CHILDHOOD EDUCATION. PROJECT TO INCLUDE THE DEMOLITION OF THE INCINERATOR. |                  |                           |        |                     |         |
|  |             | DESIGN  |                  |                           | 102    |                     | 442     |
|  |             | CONSTRUCTION  |                  |                           |        |                     | 1,563   |
|  |             | TOTAL FUNDING   | AGS              |                           | 102C   |                     | 2,005C  |
| <b>UOH330 - WINDWARD COMMUNITY COLLEGE</b> |             |   |                  |                           |        |                     |         |
| 97.  |             | WIN, CAMPUS DEVELOPMENT, OAHU   |                  |                           |        |                     |         |
|  |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITEWORK, UTILITIES, BUILDINGS, AND RENOVATION TO EXISTING FACILITIES.   |                  |                           |        |                     |         |
|  |             | DESIGN  |                  |                           | 1,838  |                     | 1       |
|  |             | CONSTRUCTION  |                  |                           | 2,594  |                     | 16,298  |
|  |             | EQUIPMENT   |                  |                           | 1,789  |                     | 1       |
|  |             | TOTAL FUNDING   | AGS              |                           | 6,221C |                     | 16,300C |
| <b>UOH500 - MAUI COMMUNITY COLLEGE</b>     |             |   |                  |                           |        |                     |         |
| 98.  |             | MAU, CAMPUS DEVELOPMENT, MAUI   |                  |                           |        |                     |         |
|  |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITEWORK, UTILITIES, BUILDINGS, AND RENOVATION TO EXISTING FACILITIES.   |                  |                           |        |                     |         |
|  |             | DESIGN  |                  |                           | 2,191  |                     |         |
|  |             | CONSTRUCTION  |                  |                           | 3,696  |                     |         |
|  |             | EQUIPMENT   |                  |                           | 1      |                     |         |
|  |             | TOTAL FUNDING   | AGS              |                           | 5,888C |                     | C       |

CAPITAL IMPROVEMENT PROJECTS

|  |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|--|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.                                   | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| UOH700 - UNIVERSITY OF HAWAII AT WEST OAHU |             |   |                  |                           |       |                     |       |
| 99.  |             | UHWO, CAMPUS DEVELOPMENT AT KAPOLEI, OAHU   |                  |                           |       |                     |       |
|  |             | PLANS AND DESIGN FOR ON-SITE AND OFF-SITE INFRASTRUCTURE IMPROVEMENTS FOR THE DEVELOPMENT OF THE UNIVERSITY OF HAWAII- WEST OAHU AT KAPOLEI.  |                  |                           |       |                     |       |
|  |             | PLANS   |                  |                           | 1     |                     |       |
|  |             | DESIGN  |                  | 559                       |       | 940                 |       |
|  |             | TOTAL FUNDING   | AGS              | 560C                      |       | 940C                |       |
| UOH900 - UOH, SYSTEM WIDE SUPPORT          |             |   |                  |                           |       |                     |       |
| 100.                                       | 503         | SYS, LONG RANGE DEVELOPMENT PLANS AND LAND ACQUISITION, STATEWIDE   |                  |                           |       |                     |       |
|  |             | PLANS AND LAND ACQUISITION FOR LONG RANGE DEVELOPMENT PLANS, INCLUDING UPDATES OF LONG RANGE DEVELOPMENT PLANS FOR VARIOUS UNIVERSITY CAMPUSES; AND LAND ACQUISITION FOR UNIVERSITY PROGRAMS.   |                  |                           |       |                     |       |
|  |             | PLANS   |                  |                           | 300   |                     |       |
|  |             | LAND  |                  |                           | 1     |                     |       |
|  |             | TOTAL FUNDING   | UOH              | 300C                      |       |                     | C     |
|  |             |   | UOH              |                           | 1R    |                     | R     |
| 101.                                       | 511         | SYS, RENOVATIONS AND IMPROVEMENTS TO UNIVERSITY BOOKSTORES, STATEWIDE   |                  |                           |       |                     |       |
|  |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS TO UNIVERSITY OF HAWAII BOOKSTORES.   |                  |                           |       |                     |       |
|  |             | PLANS   |                  |                           | 1     |                     |       |
|  |             | DESIGN  |                  |                           | 1     |                     |       |
|  |             | CONSTRUCTION  |                  | 497                       |       |                     |       |
|  |             | EQUIPMENT   |                  |                           | 1     |                     |       |
|  |             | TOTAL FUNDING   | UOH              | 500W                      |       |                     | W     |
| 102.                                       | 536         | SYS, HEALTH, SAFETY, AND CODE REQUIREMENTS, STATEWIDE   |                  |                           |       |                     |       |
|  |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES FOR HEALTH, SAFETY, AND OTHER CODE REQUIREMENTS.  |                  |                           |       |                     |       |
|  |             | PLANS   |                  |                           | 1     |                     |       |
|  |             | DESIGN  |                  | 341                       |       |                     |       |
|  |             | CONSTRUCTION  |                  | 1,431                     |       |                     |       |
|  |             | EQUIPMENT   |                  |                           | 1     |                     |       |
|  |             | TOTAL FUNDING   | AGS              | 1,774C                    |       |                     | C     |
| 103.                                       | 537         | SYS, FIRE SAFETY IMPROVEMENTS, STATEWIDE  |                  |                           |       |                     |       |
|  |             | PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRE SAFETY SYSTEMS. THE PROJECT MAY INCLUDE FIRE ALARM SYSTEMS, FIRE DETECTION SYSTEMS, FIRE SPRINKLER SYSTEMS AND CENTRAL FIRE ALARM SYSTEMS ON UNIVERSITY CAMPUSES AND FACILITIES, STATEWIDE. |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
|          |             |               |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | PLANS         |                  |                           | 1     |                     |       |
|          |             | DESIGN        |                  |                           | 330   |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 475   |                     |       |
|          |             | EQUIPMENT     |                  |                           | 1     |                     |       |
|          |             | TOTAL FUNDING | AGS              |                           | 807C  |                     | C     |

## H. CULTURE AND RECREATION

## LNR802 - HISTORIC PRESERVATION

## 1. DIAMOND HEAD STATE MONUMENT, OAHU

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO INCLUDE IRRIGATION, GRADING, LANDSCAPING, AND OTHER MISCELLANEOUS IMPROVEMENTS TO PRESERVE THE DIAMOND HEAD STATE MONUMENT SITE.

|               |     |     |   |
|---------------|-----|-----|---|
| DESIGN        |     | 1   |   |
| CONSTRUCTION  |     | 49  |   |
| TOTAL FUNDING | LNR | 50C | C |

## LNR806 - PARK DEVELOPMENT AND OPERATION

## 2. F46 KOKEE/WAIMEA CANYON COMPLEX, KAUAI

DESIGN AND CONSTRUCTION FOR PARK DEVELOPMENT, REPLACEMENT OF OLDER FACILITIES AND UTILITY IMPROVEMENTS INCLUDING WATER SYSTEM, SEWER SYSTEM, AND ROADS.

|               |     |      |   |
|---------------|-----|------|---|
| DESIGN        |     | 45   |   |
| CONSTRUCTION  |     | 455  |   |
| TOTAL FUNDING | LNR | 500C | C |

## 3. H91 WAIOLA STATE PARK, OAHU

PLANS, LAND ACQUISITION, AND DESIGN FOR THE DEVELOPMENT OF A MULTI-PURPOSE RECREATIONAL, CULTURAL, AND SPORTS PARK COMPLEX IN CENTRAL OAHU.

|               |     |      |   |
|---------------|-----|------|---|
| PLANS         |     | 1    |   |
| LAND          |     | 1    |   |
| DESIGN        |     | 198  |   |
| TOTAL FUNDING | LNR | 200C | C |

## LNR801 - OCEAN-BASED RECREATION

## 4. 020D ALA WAI BOAT HARBOR FLOATING DOCK REPLACEMENT, OAHU

DESIGN FOR THE REPLACEMENT OF FLOATING DOCKS B, C, D, F, AND G.

|               |     |     |   |
|---------------|-----|-----|---|
| DESIGN        |     | 97  |   |
| TOTAL FUNDING | LNR | 97B | B |

## 5. 020G ALA WAI BOAT HARBOR PIERS REPLACEMENT, OAHU

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS/UPGRADE OF EXISTING PIERS.

|               |     |      |   |
|---------------|-----|------|---|
| DESIGN        |     | 144  |   |
| CONSTRUCTION  |     | 575  |   |
| TOTAL FUNDING | LNR | 719B | B |

CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 6.       |             | MAUNALUA BAY MAINTENANCE DREDGING, WATER QUALITY, AND OTHER IMPROVEMENTS, OAHU   |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR THE MAINTENANCE DREDGING, WATER QUALITY, AND OTHER IMPROVEMENTS OF THE MAUNALUA BAY OCEAN ENTRANCE CHANNEL TO THE HAWAII KAI MARINA. |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           |       | 1                   |       |
|          |             | DESIGN   |                  |                           |       | 49                  |       |
|          |             | CONSTRUCTION   |                  |                           |       | 250                 |       |
|          |             | TOTAL FUNDING  | LNR              |                           |       | 300C                | C     |

AGS889 - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM

7. SA9601 ALOHA STADIUM, PUBLIC ADDRESS SYSTEM, OAHU

|  |  |               |     |  |      |        |  |
|--|--|---------------|-----|--|------|--------|--|
| DESIGN AND CONSTRUCTION FOR THE<br>REPLACEMENT AND UPGRADE OF THE PUBLIC<br>ADDRESS SYSTEM; INSTALL NEW SOUND<br>SYSTEM TO INCLUDE COVERAGE IN THE<br>SURROUNDING PARKING AREAS; AND<br>INTEGRATION OF SOUND SYSTEM WITH VIDEO<br>SCREEN CONTROL SYSTEM. |  |               |     |  |      |        |  |
|  |  | DESIGN        |     |  | 145  |        |  |
|  |  | CONSTRUCTION  |     |  |      | 1,933  |  |
|  |  | TOTAL FUNDING | AGS |  | 145B | 1,933B |  |

8. SA9602 ALOHA STADIUM, REPLACE SEATS, PHASE I, OAHU

|  |  |               |     |  |      |        |  |
|--|--|---------------|-----|--|------|--------|--|
| DESIGN AND CONSTRUCTION FOR THE<br>REPLACEMENT OF SEATS AND MOUNTING<br>HARDWARE AT THE ORANGE AND BLUE<br>SEATING LEVELS; PAINT, REPAIR, AND<br>PERFORM OTHER MISCELLANEOUS WORK AT<br>THE ORANGE SEATING LEVEL OF THE MAKAI<br>MOVABLE STANDS. |  |               |     |  |      |        |  |
|  |  | DESIGN        |     |  | 194  |        |  |
|  |  | CONSTRUCTION  |     |  |      | 2,909  |  |
|  |  | TOTAL FUNDING | AGS |  | 194B | 2,909B |  |

9. SA9603 ALOHA STADIUM, REPLACE SEATS, PHASE II, OAHU

|  |  |               |     |  |   |      |  |
|--|--|---------------|-----|--|---|------|--|
| DESIGN FOR THE REPLACEMENT OF SEATS AND<br>MOUNTING HARDWARE AT THE ORANGE AND<br>BLUE SEATING LEVELS; PAINT, REPAIR, AND<br>PERFORM OTHER MISCELLANEOUS WORK AT<br>THE ORANGE SEATING LEVEL OF THE MAUKA<br>MOVABLE STANDS. |  |               |     |  |   |      |  |
|  |  | DESIGN        |     |  |   | 194  |  |
|  |  | TOTAL FUNDING | AGS |  | B | 194B |  |

10. SA9606 ALOHA STADIUM, REPLACE SEATS, PHASE III, OAHU

|  |  |        |  |  |  |     |  |
|--|--|--------|--|--|--|-----|--|
| DESIGN FOR THE REPLACEMENT OF SEATS AND<br>MOUNTING HARDWARE AT THE YELLOW, RED,<br>AND BROWN SEATING LEVELS OF THE MAUKA<br>AND MAKAI MOVABLE STANDS. |  |        |  |  |  |     |  |
|  |  | DESIGN |  |  |  | 116 |  |



## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO. | CAPITAL<br>NO. | PROJECT<br>TITLE | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|-------------|----------------|------------------|---------------------|---------------------------|-------------|---------------------------|-------------|
|             |                |                  |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
|             |                | TOTAL FUNDING    | AGS                 |                           | B           |                           | 116B        |

**I. PUBLIC SAFETY****PSD402 - HALAWA CORRECTIONAL FACILITY**

1. P96025 HALAWA CORRECTIONAL FACILITY, FUEL STORAGE TANK UPGRADE, OAHU

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO REPLACE THE EXISTING FUEL SYSTEM WITH ONE CONFORMING WITH FEDERAL ENVIRONMENTAL PROTECTION AGENCY MANDATES FOR FUEL STORAGE AND DISPENSING.

|               |     |   |      |
|---------------|-----|---|------|
| DESIGN        |     |   | 35   |
| CONSTRUCTION  |     |   | 441  |
| TOTAL FUNDING | AGS | C | 476C |

**PSD403 - KULANI CORRECTIONAL FACILITY**

2. P96021 KULANI CORRECTIONAL FACILITY, HAWAII

DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO UPGRADE THE EXISTING ELECTRICAL SYSTEM AT THE KULANI CORRECTIONAL FACILITY.

|               |     |  |        |
|---------------|-----|--|--------|
| DESIGN        |     |  | 1      |
| CONSTRUCTION  |     |  | 1,434  |
| TOTAL FUNDING | AGS |  | 1,435C |
|               |     |  | C      |

**PSD407 - OAHU COMMUNITY CORRECTIONAL CENTER**

3. P96023 OAHU COMMUNITY CORRECTIONAL CENTER, MODIFICATIONS TO EXISTING ROOF, OAHU

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO EXISTING MODULE ROOFING SECTIONS TO CORRECT CHRONIC LEAKAGE DAMAGE.

|               |     |  |      |
|---------------|-----|--|------|
| DESIGN        |     |  | 1    |
| CONSTRUCTION  |     |  | 267  |
| TOTAL FUNDING | AGS |  | 268C |
|               |     |  | C    |

4. P96024 OAHU COMMUNITY CORRECTIONAL CENTER, IMPROVEMENTS TO LAUMAKA CENTER, OAHU

DESIGN AND CONSTRUCTION FOR ALTERATIONS AND MODIFICATIONS AT THE LAUMAKA WORK FURLOUGH CENTER TO CORRECT VARIOUS DEFICIENCIES.

|               |     |  |     |
|---------------|-----|--|-----|
| DESIGN        |     |  | 4   |
| CONSTRUCTION  |     |  | 69  |
| TOTAL FUNDING | AGS |  | 73C |
|               |     |  | C   |

**PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER**

5. P9605 WOMEN'S COMMUNITY CORRECTIONAL CENTER, PHASE III, INCREMENT I, OAHU

## CAPITAL IMPROVEMENT PROJECTS

|   |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|---|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.                                    | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|   |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE WOMEN'S COMMUNITY CORRECTIONAL CENTER, PHASE III, INCREMENT I. PROJECT TO INCLUDE RENOVATIONS TO OLOMANA COTTAGE TO CONVERT FACILITY FOR USE BY ADULT FEMALES.   |                  |                           |       |                     |       |
|   |             | DESIGN   |                  | 419                       |       |                     |       |
|   |             | CONSTRUCTION   |                  |                           |       | 5,068               |       |
|   |             | EQUIPMENT  |                  |                           |       | 1                   |       |
|   |             | TOTAL FUNDING  | AGS              | 419C                      |       | 5,069C              |       |
| 6.  | P96022      | WOMEN'S COMMUNITY CORRECTIONAL CENTER, MISCELLANEOUS IMPROVEMENTS, OAHU  |                  |                           |       |                     |       |
|   |             | DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO VARIOUS BUILDING SYSTEMS TO SATISFY CONSENT DECREE REQUIREMENTS.   |                  |                           |       |                     |       |
|   |             | DESIGN   |                  | 17                        |       |                     |       |
|   |             | CONSTRUCTION   |                  | 188                       |       |                     |       |
|   |             | TOTAL FUNDING  | AGS              | 205C                      |       |                     | C     |
| PSD900 - GENERAL ADMINISTRATION             |             |  |                  |                           |       |                     |       |
| 7.  | P9507       | REMOVAL OF ASBESTOS MATERIALS, STATEWIDE   |                  |                           |       |                     |       |
|   |             | PLANS, DESIGN, AND CONSTRUCTION FOR ASBESTOS ABATEMENT ACTIONS AT ANY LOCATION BEING USED BY ANY PSD OPERATING UNIT, STATEWIDE, REMOVE EXISTING ASBESTOS MATERIALS AND REPLACE WITH ACCEPTABLE SUBSTITUTES.  |                  |                           |       |                     |       |
|   |             | PLANS  |                  | 24                        |       |                     |       |
|   |             | DESIGN   |                  | 16                        |       |                     |       |
|   |             | CONSTRUCTION   |                  | 454                       |       |                     |       |
|   |             | TOTAL FUNDING  | AGS              | 494C                      |       |                     | C     |
| DEF110 - AMELIORATION OF PHYSICAL DISASTERS |             |  |                  |                           |       |                     |       |
| 8.  | A37         | MAUI ARMY NATIONAL GUARD ARMORY, MAUI  |                  |                           |       |                     |       |
|   |             | DESIGN AND CONSTRUCTION FOR A MAJOR ARMORY COMPLEX CONSOLIDATING THE EXISTING FACILITY, UTILITIES, ACCESS ROAD, PARKING, SECURITY FENCING, AND OTHER RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |       |
|   |             | DESIGN   |                  | 715                       |       |                     |       |
|   |             | CONSTRUCTION   |                  |                           |       | 8,400               |       |
|   |             | TOTAL FUNDING  | AGS              | 313C                      |       | 1,100C              |       |
|   |             |  | AGS              | 402N                      |       | 7,300N              |       |
| 9.  | A44         | ARMY NATIONAL GUARD, KAPOLEI/LEEWARD OAHU/CENTRAL OAHU, OAHU   |                  |                           |       |                     |       |
|   |             | PLANS, DESIGN, AND CONSTRUCTION FOR AN ARMY NATIONAL GUARD ARMORY CONSOLIDATED FACILITY OF PERMANENT STEEL AND MASONRY-TYPE CONSTRUCTION.  |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |         |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|---------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F   |
|          |             | UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER RELATED WORK. PROJECT TO RENOVATE BUILDING 117 AT BARBERS POINT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.   |                  |                           |       |                     |         |
|          |             | PLANS   |                  |                           | 300   |                     |         |
|          |             | DESIGN  |                  |                           | 500   |                     | 1,200   |
|          |             | CONSTRUCTION  |                  |                           |       |                     | 8,300   |
|          |             | TOTAL FUNDING   | DEF              |                           | 300C  |                     | C       |
|          |             |   | DEF              |                           | 500N  |                     | 9,500N  |
| 10.      | A66         | ARMY NATIONAL GUARD, RENOVATE BUILDING #282, BARBERS POINT, OAHU  |                  |                           |       |                     |         |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR THE RENOVATION OF EXISTING BUILDING #282 (BARBERS POINT) TO CONSOLIDATE THE USPFO, CSMS #1, CH-47 HANGAR, THE CH-47 ARMORY AND BUILDING #301 ARMORY. THE PROJECT TO BE CONSTRUCTED OF PERMANENT MASONRY CONSTRUCTION, UTILITIES, ACCESS ROAD, PARKING, INTERIM RENOVATIONS, AND OTHER RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. |                  |                           |       |                     |         |
|          |             | PLANS   |                  |                           | 300   |                     |         |
|          |             | DESIGN  |                  |                           |       |                     | 2,033   |
|          |             | CONSTRUCTION  |                  |                           |       |                     | 7,967   |
|          |             | TOTAL FUNDING   | DEF              |                           | 300C  |                     | C       |
|          |             |   | DEF              |                           | N     |                     | 10,000N |
| 11.      | C13         | REPLACEMENT/UPGRADE OF DISASTER WARNING AND COMMUNICATION DEVICES, STATEWIDE  |                  |                           |       |                     |         |
|          |             | PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INCREMENTAL ADDITION, REPLACEMENT, AND UPGRADE OF CIVIL DEFENSE WARNING SIRENS, OTHER WARNING DEVICES AND COMMUNICATIONS EQUIPMENT TO EXPAND THE COVERAGE OF WARNING SYSTEM TO KEEP PACE WITH NEW DEVELOPMENTS, GROWTH OF COMMUNITIES, AND POPULATION SHIFTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.      |                  |                           |       |                     |         |
|          |             | PLANS   |                  |                           | 1     |                     | 1       |
|          |             | LAND  |                  |                           | 1     |                     | 1       |
|          |             | DESIGN  |                  |                           | 37    |                     | 37      |
|          |             | CONSTRUCTION  |                  |                           | 390   |                     | 390     |
|          |             | EQUIPMENT   |                  |                           | 154   |                     | 154     |
|          |             | TOTAL FUNDING   | AGS              |                           | 483C  |                     | 483C    |
|          |             |   | AGS              |                           | 100N  |                     | 100N    |
| 12.      | C27         | 800 MEGAHERTZ WARNING SIREN CONTROL UPGRADE, OAHU   |                  |                           |       |                     |         |
|          |             | PLANS, LAND ACQUISITION, AND DESIGN FOR THE CIVIL DEFENSE WARNING SIREN CONTROL SYSTEM ON OAHU TO BE UPGRADED TO AN 800   |                  |                           |       |                     |         |

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|          |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | MEGAHERTZ TRANSCEIVER WITH AUTOMATED CONTROL AND REAL TIME REPORTING AND STATUS MONITORING.  |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           |       |                     | 1     |
|          |             | LAND   |                  |                           |       |                     | 1     |
|          |             | DESIGN   |                  |                           |       |                     | 82    |
|          |             | TOTAL FUNDING  | AGS              |                           | C     |                     | 84C   |
| 13.      | C28         | UNDERGROUND FUEL STORAGE TANK FOR EMERGENCY STANDBY GENERATOR, OAHU  |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF A 6,000 GALLON DIESEL FUEL STORAGE TANK FOR STATE CIVIL DEFENSE.   |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 1     |                     |       |
|          |             | LAND   |                  |                           | 1     |                     |       |
|          |             | DESIGN   |                  |                           | 22    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 48    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 48    |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 120C  |                     | C     |
| 14.      | C30         | EMERGENCY SATELLITE COMMUNICATIONS SYSTEM, STATEWIDE   |                  |                           |       |                     |       |
|          |             | PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN EMERGENCY SATELLITE COMMUNICATIONS SYSTEM LINKING THE STATE EMERGENCY OPERATING CENTER WITH EACH COUNTY EMERGENCY OPERATING CENTERS. |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 1     |                     |       |
|          |             | LAND   |                  |                           | 1     |                     |       |
|          |             | DESIGN   |                  |                           | 47    |                     |       |
|          |             | CONSTRUCTION   |                  |                           | 49    |                     |       |
|          |             | EQUIPMENT  |                  |                           | 253   |                     |       |
|          |             | TOTAL FUNDING  | AGS              |                           | 351C  |                     | C     |

K. GOVERNMENT-WIDE SUPPORT

GOV100 - OFFICE OF THE GOVERNOR

1. G01 PROJECT ADJUSTMENT FUND, STATEWIDE

DESIGN FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.

|               |     |  |    |  |    |
|---------------|-----|--|----|--|----|
| DESIGN        |     |  | 1  |  | 1  |
| TOTAL FUNDING | GOV |  | 1C |  | 1C |

BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY

2. H73 KAKAAKO MAKAI DEVELOPMENT, OAHU

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR COSTS OR PORTIONS THEREOF ASSOCIATED WITH THE DEVELOPMENT OF PUBLIC FACILITIES AND THE RELOCATION OF EXISTING USERS AND FACILITIES IN THE KAKAAKO WATERFRONT.

## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO. | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|----------|-------------|---------------|------------------|---------------------------|--------|---------------------|-------|
|          |             |               |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|          |             | PLANS         |                  |                           | 1      |                     |       |
|          |             | LAND          |                  |                           | 1      |                     |       |
|          |             | DESIGN        |                  |                           | 498    |                     |       |
|          |             | CONSTRUCTION  |                  |                           | 2,000  |                     |       |
|          |             | TOTAL FUNDING | BED              |                           | 2,500C |                     | C     |

## 3. HCD001 KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, OAHU

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR PLANNING, DEVELOPMENT AND PROJECT COSTS, AS DEFINED IN CHAPTER 206E, HAWAII REVISED STATUTES, FOR KAKAAKO COMMUNITY DEVELOPMENT DISTRICT. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS, AS MAY BE AVAILABLE.

|               |     |        |  |        |  |
|---------------|-----|--------|--|--------|--|
| PLANS         |     | 2,047  |  | 2,047  |  |
| LAND          |     | 1      |  | 1      |  |
| DESIGN        |     | 1      |  | 1      |  |
| CONSTRUCTION  |     | 1      |  | 1      |  |
| TOTAL FUNDING | BED | 2,050C |  | 2,050C |  |

## 4. P93074 KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, INCREMENTS 2, 3, AND 4, OAHU

PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR COSTS AND PORTIONS THEREOF ASSOCIATED WITH IMPROVEMENTS TO THE ROADWAY, DRAINAGE, SEWER, WATER, ELECTRICAL, TELEPHONE, AND CABLE TELEVISION SYSTEMS AND THE DEVELOPMENT OF PUBLIC FACILITIES.

|               |     |        |  |  |   |
|---------------|-----|--------|--|--|---|
| PLANS         |     | 1      |  |  |   |
| LAND          |     | 1      |  |  |   |
| DESIGN        |     | 1      |  |  |   |
| CONSTRUCTION  |     | 4,998  |  |  |   |
| TOTAL FUNDING | BED | 5,001E |  |  | E |

## BUF101 - BUF - PRGM PLANNG, ANALYSIS &amp; BUDGETING

## 5. BISHOP MUSEUM, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION, EXPANSION, AND/OR ADDITION TO THE BISHOP MUSEUM TO INCLUDE THE CONSTRUCTION OF A SCIENCE LEARNING CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.

|               |     |        |  |  |   |
|---------------|-----|--------|--|--|---|
| DESIGN        |     | 1      |  |  |   |
| CONSTRUCTION  |     | 2,998  |  |  |   |
| EQUIPMENT     |     | 1      |  |  |   |
| TOTAL FUNDING | AGS | 3,000C |  |  | C |

## BUF161 - COMMUNICATION

## 6. BUF02 TELECOMMUNICATIONS SITE, OAHU

DESIGN FOR A TELECOMMUNICATIONS FACILITY TO SUPPLEMENT THE EXISTING TELECOMMUNICATIONS SITE AT ROUND TOP AND

CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                                | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |        |                     |       |
|---|-------------|--|------------------|---------------------------|--------|---------------------|-------|
|   |             |  |                  | FISCAL YEAR 1995-96       | M O F  | FISCAL YEAR 1996-97 | M O F |
|   |             | THE CAPITOL COMPLEX.   |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 66     |                     |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 66C    |                     | C     |
| 7.                                      | ICSD01      | WAILUKU CONDUIT AND CABLING TO CONNECT STATE BUILDINGS, MAUI   |                  |                           |        |                     |       |
|   |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF COMMUNICATION INFRASTRUCTURE BETWEEN STATE BUILDINGS FOR COMMUNICATION WITH THE STATE CIVIC CENTER.  |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 14     |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 336    |                     |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 350C   |                     | C     |
| 8.                                      | ICSD04      | EMERGENCY GENERATOR FOR MICROWAVE SITE AT UHH, HAWAII  |                  |                           |        |                     |       |
|   |             | DESIGN AND CONSTRUCTION FOR THE INSTALLATION AND ENCLOSURE OF AN EMERGENCY GENERATOR, FUEL STORAGE TANKS, AND ELECTRICAL WORK. PROJECT TO LOCATE A MICROWAVE FACILITY AT THE UNIVERSITY OF HAWAII AT HILO. |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 36     |                     |       |
|   |             | CONSTRUCTION   |                  |                           | 190    |                     |       |
|   |             | TOTAL FUNDING  | AGS              |                           | 226C   |                     | C     |
| 9.                                      | 101004      | MICROWAVE TOWER AND GENERATOR ENCLOSURE, MOLOKAI   |                  |                           |        |                     |       |
|   |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MICROWAVE TOWER AND GENERATOR AT THE KAUNAKAKAI CIVIC CENTER. TOWER SHALL SUPPORT THE MICROWAVE ANTENNA TO LINK KAUNAKAKAI TO THE STATEWIDE MICROWAVE BACKBONE.  |                  |                           |        |                     |       |
|   |             | DESIGN   |                  |                           | 26     |                     |       |
|   |             | CONSTRUCTION   |                  |                           |        |                     | 171   |
|   |             | EQUIPMENT  |                  |                           |        |                     | 1     |
|   |             | TOTAL FUNDING  | AGS              |                           | 26C    |                     | 172C  |
| <b>LNR101 - PUBLIC LANDS MANAGEMENT</b> |             |  |                  |                           |        |                     |       |
| 10.                                     | E89         | MAKALAWENA EASEMENT ACQUISITION, NORTH KONA, HAWAII  |                  |                           |        |                     |       |
|   |             | LAND ACQUISITION FOR A PUBLIC RIGHT OF WAY EASEMENT.   |                  |                           |        |                     |       |
|   |             | LAND   |                  |                           | 1,375  |                     |       |
|   |             | TOTAL FUNDING  | LNR              |                           | 1,375B |                     | B     |
| 11.                                     | E85B        | HANAPEPE TOWN LOTS COMMERCIAL PARK, KAUAI  |                  |                           |        |                     |       |
|   |             | PLANS AND DESIGN FOR THE PREPARATION OF A FEASIBILITY STUDY, MASTER PLAN, PROJECT DESIGN, CONSOLIDATION OF STATE LANDS AND RESUBDIVISION OF STATE LANDS INTO COUNTY APPROVED LOTS.                         |                  |                           |        |                     |       |
|   |             | PLANS  |                  |                           | 50     |                     |       |
|   |             | DESIGN   |                  |                           | 100    |                     |       |
|   |             | TOTAL FUNDING  | LNR              |                           | 150B   |                     | B     |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |  |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| 12.      | E85C        | GENERAL LYMAN FIELD INDUSTRIAL PARK, HAWAII  |                  |                           |       |                     |       |
|          |             | PLANS AND DESIGN FOR THE PREPARATION OF A FEASIBILITY STUDY, MASTER PLAN, PROJECT DESIGN, CONSOLIDATION OF STATE LANDS AND RESUBDIVISION OF STATE LANDS INTO COUNTY APPROVED LOTS. |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 50    |                     |       |
|          |             | DESIGN   |                  |                           | 100   |                     |       |
|          |             | TOTAL FUNDING  | LNR              |                           | 150B  |                     | B     |
| 13.      | E85D        | DLNR - OAHU BASEYARD, OAHU   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR A DEPARTMENT BASEYARD, WAREHOUSE, AND PARKING AREA.  |                  |                           |       |                     |       |
|          |             | DESIGN   |                  |                           | 191   |                     |       |
|          |             | CONSTRUCTION   |                  |                           |       |                     | 957   |
|          |             | TOTAL FUNDING  | LNR              |                           | 191B  |                     | 957B  |
| 14.      | E85H        | HIENALOLI MASTER PLANNING, HAWAII  |                  |                           |       |                     |       |
|          |             | PLANS AND DESIGN FOR THE PREPARATION OF A FEASIBILITY STUDY, MASTER PLAN, PROJECT DESIGN, AND SUBDIVISION OF STATE LAND INTO COUNTY APPROVED LOTS.                                 |                  |                           |       |                     |       |
|          |             | PLANS  |                  |                           | 50    |                     |       |
|          |             | DESIGN   |                  |                           | 100   |                     |       |
|          |             | TOTAL FUNDING  | LNR              |                           | 150B  |                     | B     |

## AGS221 - CONSTRUCTION

|     |     |   |     |  |        |  |   |
|-----|-----|---|-----|--|--------|--|---|
| 15. | A48 | LIHUE MULTI-AGENCY MAINTENANCE AND SERVICE FACILITIES, PHASES 1, 2, 3, KAUAI  |     |  |        |  |   |
|     |     | LAND ACQUISITION FOR THE PROVISION OF OFFICES, MAINTENANCE SHOPS, STORAGE AND VEHICLE SERVICING AREAS FOR DAGS KAUAI DISTRICT OFFICE.   |     |  |        |  |   |
|     |     | LAND  |     |  | 1,700  |  |   |
|     |     | TOTAL FUNDING   | AGS |  | 1,700C |  | C |
| 16. | B27 | ADVANCED PLANNING, STATEWIDE  |     |  |        |  |   |
|     |     | PLANS FOR THE PROVISION OF ASSISTANCE TO THE PUBLIC, STATE AND COUNTIES IN MATTERS RELATING TO THE PUBLIC WORKS DIVISION. IT INCLUDES PREPARATION OF REPORTS, STUDIES, INVENTORIES, REVIEWS, AND PERFORMANCE OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS. |     |  |        |  |   |
|     |     | PLANS   |     |  | 150    |  |   |
|     |     | TOTAL FUNDING   | AGS |  | 150C   |  | C |
| 17. | B28 | STATE OFFICE BUILDINGS REMODELING, STATEWIDE  |     |  |        |  |   |
|     |     | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REMODELING AND UPGRADING OF OFFICES OCCUPIED BY STATE AGENCIES IN STATE   |     |  |        |  |   |

## CAPITAL IMPROVEMENT PROJECTS

|          |             |   |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|----------|-------------|---|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO. | CAPITAL NO. | PROJECT TITLE   | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|          |             | OWNED SPACE STATEWIDE, TO PROVIDE ADEQUATE SPACE FOR AGENCIES TO ACCOMMODATE THEIR OPERATIONAL REQUIREMENTS. WORK INCLUDES REMODELING FOR REORGANIZATION, PROGRAM CHANGES, STAFFING CHANGES, CORRECTION OF INEFFICIENT OFFICE LAYOUTS, PLUMBING, ELEVATORS, ETC.  |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 129                       |       | 80                  |       |
|          |             | CONSTRUCTION  |                  | 654                       |       | 425                 |       |
|          |             | EQUIPMENT   |                  | 19                        |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 802C                      |       | 505C                |       |
| 18.      | C43         | KAHULUI CIVIC CENTER, PHASE I, MAUI   |                  |                           |       |                     |       |
|          |             | PLANS AND LAND ACQUISITION FOR THE DESIGN AND CONSTRUCTION OF THE KAHULUI CIVIC CENTER VIA LEASE BACK/PURCHASE OPTION AGREEMENT WITH PRIVATE DEVELOPER SELECTED BY REQUEST FOR PROPOSAL (RFP) PROCESS.  |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 499                       |       |                     |       |
|          |             | LAND  |                  | 1                         |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 500C                      |       |                     | C     |
| 19.      | C101        | LEIOPAPA A KAMEHAMEHA BUILDING RENOVATIONS, OAHU  |                  |                           |       |                     |       |
|          |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE LEIOPAPA A KAMEHAMEHA BUILDING FOR NEW OCCUPANTS.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 1                         |       |                     |       |
|          |             | CONSTRUCTION  |                  | 1,876                     |       |                     |       |
|          |             | EQUIPMENT   |                  | 1                         |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 1,878C                    |       |                     | C     |
| 20.      | B101M       | HEALTH AND SAFETY REQUIREMENTS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | DESIGN AND CONSTRUCTION FOR THE MITIGATION OF HAZARDOUS MATERIALS FROM STATE FACILITIES TO MEET CURRENT CODE REQUIREMENTS, STATEWIDE.   |                  |                           |       |                     |       |
|          |             | DESIGN  |                  | 144                       |       |                     |       |
|          |             | CONSTRUCTION  |                  | 383                       |       |                     |       |
|          |             | TOTAL FUNDING   | AGS              | 527C                      |       |                     | C     |
| 21.      |             | CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE   |                  |                           |       |                     |       |
|          |             | PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS. |                  |                           |       |                     |       |
|          |             | PLANS   |                  | 5,498                     |       | 5,498               |       |
|          |             | DESIGN  |                  | 1                         |       | 1                   |       |



## CAPITAL IMPROVEMENT PROJECTS

| ITEM NO.                             | CAPITAL NO. | PROJECT TITLE  | EXPENDING AGENCY | APPROPRIATIONS (IN 000's) |       |                     |       |
|--------------------------------------|-------------|--|------------------|---------------------------|-------|---------------------|-------|
|                                      |             |  |                  | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
|                                      |             | CONSTRUCTION   |                  |                           | 1     |                     | 1     |
|                                      |             | TOTAL FUNDING  | AGS              | 5,500C                    |       | 5,500C              |       |
| 22.                                  |             | STATE OFFICE BUILDING, OAHU  |                  |                           |       |                     |       |
|                                      |             | LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PURCHASE OF A STATE OFFICE BUILDING. PROJECT TO INCLUDE ACQUISITION OF FACILITY, RENOVATIONS, UPGRADE, AND OTHER RELATED IMPROVEMENTS TO AIR CONDITIONING SYSTEM, INTERIOR RENOVATION, ASBESTOS REMOVAL, AND OTHER RELATED WORK. |                  |                           |       |                     |       |
|                                      |             | LAND   |                  | 17,500                    |       |                     |       |
|                                      |             | DESIGN   |                  | 100                       |       |                     |       |
|                                      |             | CONSTRUCTION   |                  | 1,399                     |       |                     |       |
|                                      |             | EQUIPMENT  |                  | 1                         |       |                     |       |
|                                      |             | TOTAL FUNDING  | BED              | 19,000C                   |       |                     | C     |
| 23.                                  |             | STATE OFFICE BUILDINGS, KAPOLEI, OAHU  |                  |                           |       |                     |       |
|                                      |             | PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR STATE OFFICE BUILDINGS VIA NORMAL DESIGN/CONSTRUCTION METHOD, PURCHASE, LEASE BACK/PURCHASE OPTION AGREEMENT, AND/OR DESIGN/BUILD PROCESS.   |                  |                           |       |                     |       |
|                                      |             | PLANS  |                  | 1,491                     |       |                     |       |
|                                      |             | LAND   |                  | 3                         |       |                     |       |
|                                      |             | DESIGN   |                  | 1,003                     |       |                     |       |
|                                      |             | CONSTRUCTION   |                  | 3                         |       |                     |       |
|                                      |             | TOTAL FUNDING  | AGS              | 2,500C                    |       |                     | C     |
| 24.                                  |             | HOOKIEKIE STREET ROAD IMPROVEMENTS, OAHU   |                  |                           |       |                     |       |
|                                      |             | LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR ROAD IMPROVEMENTS TO HOOKIEKIE STREET FRONTING MOMILANI ELEMENTARY SCHOOL.  |                  |                           |       |                     |       |
|                                      |             | LAND   |                  | 5                         |       |                     |       |
|                                      |             | DESIGN   |                  | 25                        |       |                     |       |
|                                      |             | CONSTRUCTION   |                  | 200                       |       |                     |       |
|                                      |             | TOTAL FUNDING  | AGS              | 230C                      |       |                     | C     |
| SUB201 - CITY AND COUNTY OF HONOLULU |             |  |                  |                           |       |                     |       |
| 25.                                  |             | HONOLULU POLICE DEPARTMENT, OAHU   |                  |                           |       |                     |       |
|                                      |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE UPGRADING OF THE TELECOMMUNICATIONS SYSTEM OF THE HONOLULU POLICE DEPARTMENT.  |                  |                           |       |                     |       |
|                                      |             | DESIGN   |                  | 1                         |       |                     |       |
|                                      |             | CONSTRUCTION   |                  | 1,898                     |       |                     |       |
|                                      |             | EQUIPMENT  |                  | 1                         |       |                     |       |
|                                      |             | TOTAL FUNDING  | CCH              | 1,900C                    |       |                     | C     |
| 26.                                  |             | MILILANI CHILD CARE CENTER, OAHU   |                  |                           |       |                     |       |
|                                      |             | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MILILANI CHILD CARE CENTER.  |                  |                           |       |                     |       |

## CAPITAL IMPROVEMENT PROJECTS

| ITEM<br>NO.               | CAPITAL<br>NO. | PROJECT<br>TITLE  | EXPENDING<br>AGENCY | APPROPRIATIONS (IN 000's) |             |                           |             |
|---------------------------|----------------|---|---------------------|---------------------------|-------------|---------------------------|-------------|
|                           |                |   |                     | FISCAL<br>YEAR<br>1995-96 | M<br>O<br>F | FISCAL<br>YEAR<br>1996-97 | M<br>O<br>F |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 398         |                           |             |
|                           |                | EQUIPMENT   |                     |                           | 1           |                           |             |
|                           |                | TOTAL FUNDING   | CCH                 |                           | 400C        |                           | C           |
| 27.                       |                | WHITMORE AVENUE WALKWAY, OAHU   |                     |                           |             |                           |             |
|                           |                | DESIGN AND CONSTRUCTION FOR AN ASPHALT<br>CONCRETE WALKWAY ALONG WHITMORE<br>AVENUE FROM UAKANIKO'O STREET TO IHIIIH<br>AVENUE.   |                     |                           |             |                           |             |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 149         |                           |             |
|                           |                | TOTAL FUNDING   | CCH                 |                           | 150C        |                           | C           |
| SUB301 - COUNTY OF HAWAII |                |   |                     |                           |             |                           |             |
| 28.                       |                | PIIHONUA RESERVOIR AND TRANSMISSION LINES, HAWAII   |                     |                           |             |                           |             |
|                           |                | PLANS, LAND ACQUISITION, DESIGN,<br>CONSTRUCTION, AND EQUIPMENT FOR THE<br>PIIHONUA RESERVOIR AND TRANSMISSION<br>LINES TO ACCOMMODATE ADDITIONAL WATER<br>USAGE IN HILO. |                     |                           |             |                           |             |
|                           |                | PLANS   |                     |                           | 1           |                           |             |
|                           |                | LAND  |                     |                           | 1           |                           |             |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 1,096       |                           |             |
|                           |                | EQUIPMENT   |                     |                           | 1           |                           |             |
|                           |                | TOTAL FUNDING   | COH                 |                           | 1,100C      |                           | C           |
| 29.                       |                | KA'U AGRICULTURAL WATER SYSTEM, HAWAII  |                     |                           |             |                           |             |
|                           |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR<br>AN AGRICULTURAL WATER SYSTEM IN KA'U.  |                     |                           |             |                           |             |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 498         |                           |             |
|                           |                | EQUIPMENT   |                     |                           | 1           |                           |             |
|                           |                | TOTAL FUNDING   | COH                 |                           | 500C        |                           | C           |
| SUB401 - COUNTY OF MAUI   |                |   |                     |                           |             |                           |             |
| 30.                       |                | MAUI COMMUNITY ARTS AND CULTURAL CENTER, MAUI   |                     |                           |             |                           |             |
|                           |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR<br>THE MAUI COMMUNITY ARTS AND CULTURAL<br>CENTER.  |                     |                           |             |                           |             |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 998         |                           |             |
|                           |                | EQUIPMENT   |                     |                           | 1           |                           |             |
|                           |                | TOTAL FUNDING   | COM                 |                           | 1,000C      |                           | C           |
| 31.                       |                | NISEI VETERANS MEMORIAL CENTER, MAUI  |                     |                           |             |                           |             |
|                           |                | DESIGN, CONSTRUCTION, AND EQUIPMENT FOR<br>THE NISEI VETERANS MEMORIAL CENTER.  |                     |                           |             |                           |             |
|                           |                | DESIGN  |                     |                           | 1           |                           |             |
|                           |                | CONSTRUCTION  |                     |                           | 998         |                           |             |
|                           |                | EQUIPMENT   |                     |                           | 1           |                           |             |
|                           |                | TOTAL FUNDING   | COM                 |                           | 1,000C      |                           | C           |

**PART V. CAPITAL IMPROVEMENTS PROGRAM PROVISIONS**

**SECTION 100.** Provided that of the general obligation bond fund appropriation for water and land development (LNR 141), the sum of \$4,421,000 for fiscal year 1995-1996 shall be used for land acquisition and construction for Hualalai well development and support facilities, Hawaii; provided further that the general obligation bond fund appropriation shall be credited to the department of agriculture, university of Hawaii, and department of land and natural resources; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 101.** Provided that of the general obligation bond fund and revolving funds appropriation for water and land development (LNR 141), the sum of \$1,195,000 for fiscal year 1995-1996 shall be used for plans and land acquisition for north Kona well sites, Hawaii; provided further that the general obligation bond fund appropriation of \$598,000 shall be credited to the department of agriculture, university of Hawaii, and department of land and natural resources; provided further that the revolving funds appropriation of \$597,000 shall be credited to the housing finance and development corporation; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 102.** Provided that of the special funds appropriation for water and land development (LNR 141), the sum of \$1,099,000 for fiscal biennium 1995-1997 shall be used for plans, land acquisition, design, and construction for Hina Lani drive water transmission line and reservoir, Hawaii; provided further that the special funds appropriation shall be credited to the department of transportation; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 103.** Provided that of the revolving funds appropriation for water and land development (LNR 141), the sum of \$1,068,000 for fiscal biennium 1995-1997 shall be used for plans, design, and construction for Palani road water transmission line, phase I, Hawaii; provided further that the revolving funds appropriation shall be credited to the housing finance and development corporation; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 104.** Provided that of the general obligation bond fund appropriation for water and land development (LNR 141), the sum of \$498,000 for fiscal biennium 1995-1997 shall be used for plans and design for Keopu well development and support facilities, Hawaii; provided further that the general obligation bond fund appropriation shall be credited to the department of agriculture, university of Hawaii, and department of land and natural resources; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 105.** Provided that of the special funds appropriation for water and land development (LNR 141), the sum of \$1,539,000 for fiscal biennium 1995-1997 shall be used for plans, design, and construction for Keahole reservoir, Hawaii; provided further that the special funds appropriation shall be credited to the department of transportation; and provided further that the credited amounts shall apply to the pro rata share of the total development cost as identified in the memorandum of understanding for state water development and water system improvements to support state projects, north Kona, Hawaii.

**SECTION 106.** Provided that of the special funds and revenue bond funds appropriation for airports administration (TRN 195), the sum of \$2,400,000 for fiscal biennium 1995-1997 shall be used for airports division capital improvements program staff costs, statewide; provided further that the airports division shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the airports division shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 107.** Provided that of the revenue bond funds appropriation for harbors administration (TRN 395), the sum of \$2,000,000 for fiscal biennium 1995-1997 shall be used for harbors division capital improvements program staff costs, statewide; provided further that the harbors division shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the harbors division shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 108.** Provided that of the other federal funds appropriation for Oahu highways (TRN 501), the sum of \$8,160,000 for fiscal year 1995-1996 shall be used for design and construction for interstate H-2, Waipio interchange improvements, Oahu; provided further that no funds shall be expended unless the State's pro rata matching share for the federal funds are paid with private contributions; and provided further that no funds shall be expended unless the private developer enters into an agreement with the State to reimburse the state highway fund for all federal funds used for this project.

**SECTION 109.** Provided that of the other federal funds appropriation for Oahu highways (TRN 501), the sum of \$6,000,000 for fiscal year 1995-1996 shall be used for design and construction for interstate H-2, Mililani interchange improvements, Oahu; provided further that no funds shall be expended unless the State's pro rata matching share for the federal funds are paid with private contributions; and provided further that no funds shall be expended unless the private developer enters into an agreement with the State to reimburse the state highway fund for all federal funds used for this project.

**SECTION 110.** Provided that of the other federal funds appropriation for Oahu highways (TRN 501), the sum of \$3,200,000 for fiscal year 1995-1996 shall be used for construction for Kunia road widening, south Kupuna loop to Anonui street,

Oahu; provided further that no funds shall be expended unless the State's pro rata matching share for the federal funds are paid with private contributions; and provided further that no funds shall be expended unless the private developer enters into an agreement with the State to reimburse the state highway fund for all federal funds used for this project.

SECTION 111. Provided that of the special funds appropriation for Oahu highways (TRN 501), the sum of \$2,800,000 for fiscal biennium 1995-1997 shall be used for plans, land acquisition, design, and construction for Farrington highway improvements, Kapolei, Oahu; provided further that the department of transportation highways division shall coordinate the project with the university of Hawaii; provided further that no funds shall be expended unless matched on a dollar-for-dollar basis with private contributions; and provided further that no funds shall be expended unless the university of Hawaii receives title to a total of 500 acres of land in fee simple at no cost, and free of any contingencies and any encumbrances resulting from a memorandum of understanding or memorandum of agreement.

SECTION 112. Provided that of the special funds and revenue bond funds appropriation for highways administration (TRN 595), the sum of \$38,000,000 for fiscal biennium 1995-1997 shall be used for highways division capital improvements program staff costs, statewide; provided further that the highways division shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the highways division shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 113. Provided that of the general obligation bond fund appropriation and other federal funds appropriation for highways administration (TRN 595), the sum of \$7,200,000 for fiscal year 1995-1996 shall be used for plans, design, and construction for Ala Wai canal dredging, water quality, and other improvements, Oahu; provided further that the federal funds shall be from the Federal Intermodal Surface Transportation Efficiency Act (ISTEA); provided further that the department of land and natural resources land management division shall be designated as the lead agency and shall assign personnel to manage and implement the project; provided further that the department of transportation shall be designated as the expending agency; provided further that the department of transportation shall fully cooperate and provide technical assistance and guidance in securing and expending the ISTEA federal funds; and provided further that no state funds shall be expended unless matched on a dollar-for-dollar basis with funds from the city and county of Honolulu.

SECTION 114. Provided that of the general obligation bond fund appropriation and other federal funds appropriation for highways administration (TRN 595), the sum of \$300,000 for fiscal year 1995-1996 shall be used for plans, design, and construction for Pokai Bay beach and breakwater improvements, Oahu; provided further that the federal funds shall be from the Federal Intermodal Surface Transportation Efficiency Act (ISTEA); provided further that the department of land and natural resources boating and ocean recreation division shall be designated as the lead agency and shall assign personnel to manage and implement the project; and provided further that the department of transportation shall be designated as the expending agency; provided further that the department of transportation shall fully

cooperate and provide technical assistance and guidance in securing and expending the ISTE federal funds.

**SECTION 115.** Provided that of the general obligation bond fund appropriation for land and natural resources - natural physical environment (LNR 906), the sum of \$3,000,000 for fiscal biennium 1995-1997 shall be used for department of land and natural resources capital improvements program staff costs, statewide; provided further that the department of land and natural resources shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the department of land and natural resources shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 116.** Provided that of the special funds appropriation for Kona hospital (HTH 215), the sum of \$4,000,000 for fiscal year 1995-1996 shall be used for design, construction, and equipment for Kona community hospital, renovation and expansion, phase II, Hawaii; and provided further that the special funds shall be paid from the division of community hospitals facility administration fund.

**SECTION 117.** Provided that of the general obligation bond fund appropriation for private hospitals and medical services (SUB 601), the sum of \$1,500,000 for fiscal year 1995-1996 shall be used for the plans, design, construction, and equipment of a long-term care unit at Kahuku hospital; provided further that this appropriation shall be expended only if the State receives the balance of \$1,140,297 plus the interest accrued from Kahuku hospital in fiscal year 1995-1996 as reimbursement for the non-fulfillment of grant conditions legislated in Act 296, Session Laws of Hawaii 1991, as amended by Act 300, Session Laws of Hawaii 1992.

**SECTION 118.** Provided that of the special funds appropriation for school based budgeting (EDN 100), the sum of \$300,000 for fiscal biennium 1995-1997 shall be used for department of education capital improvements program staff costs, statewide; provided further that the department of education shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the department of education shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 119.** Provided that in the implementation of capital improvements program projects funded by the state educational facilities improvement special fund, the department of accounting and general services, with the concurrence of the department of education and with the approval of the governor, may make expenditures from the state educational facilities improvement special fund to satisfy the objectives of the state educational facilities improvement special fund appropriations.

**SECTION 120.** After the objectives of appropriations made in this Act for capital improvements program purposes from the state educational facilities improvement special fund have been met, any unrequired balances shall be transferred

to the special fund project adjustment fund for state educational facilities appropriated in part II and described further in part IV of this Act, and shall be considered a supplemental appropriation.

SECTION 121. In the event that currently authorized appropriations specified for capital improvements program purposes listed in this Act or in any other act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the state educational facilities improvement special fund, the governor may make supplemental allotments from the special funded project adjustment fund for state educational facilities appropriated in part II and described further in part IV of this Act; provided that such supplemental allotments from the special fund project adjustment fund for state educational facilities shall not be used to increase the scope of the project, and may only be made to supplement currently authorized capital improvements program project cost elements.

SECTION 122. Provided that any amount appropriated for any capital improvements program project authorized in part II and listed in formal education, part G of part IV of this Act and funded from the state educational facilities improvement special fund and is in excess of the amount required to complete the project, such excess funds may be expended with the approval of the governor for any or all of the following projects and purposes:

- (1) Kapolei high school, Oahu  
Design, construction, and equipment for first increment, ground and site improvements, equipment and appurtenances.
- (2) Kapolei intermediate school, Oahu  
Design, construction, and equipment for first increment, ground and site improvements, equipment and appurtenances.
- (3) Kealakehe intermediate school, Hawaii  
Design, construction, and equipment for library, parking, sewer system, lavatories, media and audio-visual centers, ground and site improvements, equipment and appurtenances.
- (4) Keonepoko elementary school, Hawaii  
Design, construction, and equipment for phase III, ground and site improvements, equipment and appurtenances.
- (5) Lokelani intermediate school, Maui  
Design construction, and equipment for the cafetorium, ground and site improvements, equipment and appurtenances.
- (6) Wailuku elementary II school (new), Maui  
Design, construction, and equipment for first increment, ground and site improvements, equipment and appurtenances.

SECTION 123. On July 1, 1995, the director of finance shall transfer the sum of \$1,000,000 from the works of art special fund, section 103-8.5, Hawaii Revised Statutes, to the state educational facilities special improvement special fund, school based budgeting (EDN 100), and provided further that the sum of \$1,000,000 shall be used to implement the mobile school program.

SECTION 124. Provided that of the private contributions and revolving funds appropriation for university of Hawaii, Manoa (UOH 100), the sum of \$6,751,000 for fiscal year 1995-1996 shall be used for design, construction, and equipment for the special events arena and athletics support facilities, Oahu; and provided further that the university of Hawaii is authorized to use funds from the

university of Hawaii at Manoa intercollegiate athletics revolving fund and seek private contributions for the completion of the facility.

SECTION 125. Provided that of the general obligation bond fund appropriation for university of Hawaii at Hilo (UOH 210), the sum of \$7,633,000 for fiscal year 1995-1996 shall be used for the university of Hawaii at Hilo, university park, phase II, Hawaii; provided further that no construction funds shall be expended unless the scope of the project includes the full construction of a roadway connecting the university park to Kawili street; provided further that this roadway shall be a two lane roadway in each direction with median; and provided further that funds may be used for the relocation of existing facilities affected by this project.

SECTION 126. Provided that of the general obligation bond fund appropriation for university of Hawaii at west Oahu (UOH 700), the sum of \$1,500,000 for fiscal biennium 1995-1997 shall be used for plans and design for university of Hawaii-west Oahu, campus development at Kapolei, Oahu; provided further that no funds shall be expended unless the university of Hawaii receives title to a total of 500 acres of land in fee simple at no cost, and free of any contingencies and any encumbrances resulting from a memorandum of understanding or memorandum of agreement.

SECTION 127. Provided that of the general obligation bond fund appropriation for communication (BUF 161), the sum of \$66,000 for fiscal year 1995-1996 shall be used for design for a telecommunications site, Oahu; provided further that the department of budget and finance shall attempt to develop this project with the private sector in order to reduce the cost of infrastructure; provided further that the department of budget and finance shall prepare a report outlining the department's efforts to jointly develop the telecommunications site; and provided further that the department of budget and finance shall submit this report to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 128. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$1,375,000 for fiscal year 1995-1996 shall be used for land acquisition for Makalawena easement acquisition, north Kona, Hawaii; and provided further that the special funds shall be paid from the department of land and natural resources special land and development fund.

SECTION 129. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$150,000 for fiscal year 1995-1996 shall be used for plans and design for Hanapepe town lots commercial park, Kauai; and provided further that the special funds shall be paid from the department of land and natural resources industrial park special fund.

SECTION 130. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$150,000 for fiscal year 1995-1996 shall be used for plans and design for General Lyman field industrial park, Hawaii; and provided further that the special funds shall be paid from the department of land and natural resources industrial park special fund.

SECTION 131. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$1,148,000 for fiscal biennium 1995-1997 shall be used for design and construction for the department of land and natural resources baseyard, Oahu; and provided further that the special funds shall be paid



from the department of land and natural resources special land and development fund.

SECTION 132. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$150,000 for fiscal year 1995-1996 shall be used for plans and design for Hienaloli master planning, Hawaii; and provided further that the special funds shall be paid from the department of land and natural resources industrial park special fund.

SECTION 133. Provided that of the general obligation bond fund appropriation for construction (AGS 221), the sum of \$11,000,000 for fiscal biennium 1995-1997 shall be used for department of accounting and general services capital improvements program staff costs, statewide; provided further that the department of accounting and general services shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the department of accounting and general services shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 134. Provided that of the general obligation bond fund appropriation for construction (AGS 221), the sum of \$19,000,000 for fiscal year 1995-1996 shall be used for land acquisition, design, construction, and equipment for the purchase of building improvements identified by tax map key 2-1-58:06, asbestos removal, upgrade of air conditioning system, and other related improvements; provided further that the funds shall be expended by the Hawaii community development authority; and provided further that upon acquisition of building improvements, the Hawaii community development authority shall transfer the building improvements to the department of accounting and general services.

SECTION 135. Provided that of the general obligation bond fund appropriation for construction (AGS 221), the sum of \$2,500,000 for fiscal year 1995-1996 shall be used for plans, land acquisition, design, and construction for state office buildings, Kapolei, Oahu; provided further that the location of the buildings shall be parcels number 1, number 2, number 3, and number 6 of the 40 acres at Kapolei, Oahu, as designated by the State of Hawaii/Campbell estate agreements dated April 11, 1989 and September 14, 1994; provided further that no funds shall be expended unless the State receives title to the 40 acres of land in fee simple at no cost, and free of any contingencies and any encumbrances resulting from dispositions including, but not limited to, a memorandum of understanding, memorandum of agreement, lease, or request for proposal, unless the contingency or encumbrance is approved by the legislature by concurrent resolution.

SECTION 136. Provided that of the general obligation bond fund appropriation for the city and county of Honolulu (SUB 201), the sum of \$1,900,000 shall be used for design, construction, and equipment for the Honolulu police department telecommunications system; provided further that the city and county of Honolulu shall coordinate the system with the department of budget and finance; provided further that the engineering of the system shall be reviewed by the State, and that the State shall be given an opportunity to comment and have input on the final design and bid specifications; and provided further that no state funds shall be expended

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unless matched on a dollar-for-dollar basis with funds from the city and county of Honolulu.

SECTION 137. Provided that of the general obligation bond fund appropriation for the county of Hawaii (SUB 301), the sum of \$1,100,000 for fiscal year 1995-1996 shall be used for plans, land acquisition, design, construction, and equipment for the Piihonua reservoir and transmission lines, Hawaii; provided further that no funds shall be expended unless the State receives an appropriate number of water credits from the county of Hawaii board of water supply; provided further that the number of water credits given to the State must be agreed to by the department of land and natural resources; and provided further that the county of Hawaii shall submit a report on the number of water credits given to the State no later than twenty days prior to the convening of the regular session of 1996.

SECTION 138. Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, is amended:

(1) By amending Item A-1 to read:

“1.FIB861 DIAMOND HEAD FILM STUDIO, OAHU

CONSTRUCTION FOR [A SOUNDSTAGE,] PART OF  
AN ADMINISTRATION [BUILDING,] COMPLEX  
AND CONSTRUCTION MILL [, AND  
LANDSCAPING] FOR THE FILM FACILITY.

|               |     |        |    |
|---------------|-----|--------|----|
| CONSTRUCTION  |     | 5,500  |    |
| TOTAL FUNDING | BED | 5,500C | C” |

(2) By amending Item C-78G to read:

“78G. KAUMUALII HIGHWAY IMPROVEMENTS, TEMPORARY BYPASS ROAD,  
KAUAI

LAND ACQUISITION, DESIGN, AND  
CONSTRUCTION FOR A TEMPORARY BYPASS  
ROAD VIA KIPU, HULEMALU, AND HALEHAKA  
ROADS AND KIPU ROAD INTERSECTION AT  
KAUMUALII HIGHWAY.  
[(SPECIAL FUNDS FROM DUTY FREE)]

|               |     |       |         |
|---------------|-----|-------|---------|
| LAND          |     | 100   |         |
| DESIGN        |     | 55    |         |
| CONSTRUCTION  |     | 1,200 |         |
| TOTAL FUNDING | TRN | B     | 1,355B” |

(3) By amending Item E-18 to read:

“18.610301 NEW VECTOR CONTROL FACILITY, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW VECTOR CONTROL FACILITY TO REPLACE EXISTING FACILITY. FACILITY TO INCLUDE LABORATORY FACILITIES AND OFFICES FOR THE VECTOR ADMINISTRATION AND FIELD OPERATIONS. PROJECT TO INCLUDE ON-SITE AND OFF-SITE INFRASTRUCTURE IMPROVEMENTS AS REQUIRED BY PROJECT.

|               |     |  |        |                 |
|---------------|-----|--|--------|-----------------|
| DESIGN        |     |  |        |                 |
| CONSTRUCTION  |     |  | [999]  | $\frac{1}{998}$ |
| EQUIPMENT     |     |  |        | $\frac{1}{1}$   |
| TOTAL FUNDING | AGS |  | 1,000C | C''             |

(4) By amending Item G-24B to read:

“24B. KALEIOPUU ELEMENTARY SCHOOL, OAHU

DESIGN FOR [AN] ADMINISTRATION/LIBRARY BUILDING(S) AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.

|               |     |  |   |        |
|---------------|-----|--|---|--------|
| DESIGN        |     |  |   | 225    |
| TOTAL FUNDING | AGS |  | B | 225B'' |

(5) By amending Item G-24C to read:

“24C. KAMAILE ELEMENTARY SCHOOL, OAHU

DESIGN FOR [AN] ADMINISTRATION/LIBRARY BUILDING(S) AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.

|               |     |  |   |        |
|---------------|-----|--|---|--------|
| DESIGN        |     |  |   | 225    |
| TOTAL FUNDING | AGS |  | B | 225B'' |

(6) By amending Item G-24D to read:

“24D. 340009 KANOELANI ELEMENTARY SCHOOL, OAHU

DESIGN FOR [AN] ADMINISTRATION/LIBRARY BUILDING(S) AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.

|               |     |  |   |        |
|---------------|-----|--|---|--------|
| DESIGN        |     |  |   | 225    |
| TOTAL FUNDING | AGS |  | B | 225B'' |

(7) By amending Item G-26B to read:

“26B. 347003 KAPOLEI ELEMENTARY SCHOOL, OAHU

DESIGN FOR THIRD INCREMENT; RENOVATION  
OF TEMPORARY DINING ROOM INTO  
CLASSROOMS; GROUND AND SITE  
IMPROVEMENTS; EQUIPMENT AND  
APPURTENANCES.

DESIGN

TOTAL FUNDING

AGS

B

215

215B''

(8) By amending Item G-44 to read:

“44. 215009 MILILANI HIGH SCHOOL, OAHU

DESIGN FOR FOUR CLASSROOM ADDITION;  
RENOVATE CLASSROOMS IN BUILDING [D] B;  
EQUIPMENT AND APPURTENANCES.

DESIGN

TOTAL FUNDING

AGS

B

175

175B''

(9) By amending Item G-56 to read:

“56. 628005 UPCOUNTRY HIGH SCHOOL, MAUI

DESIGN FOR [CLASSROOMS] THIRD INCREMENT;  
GROUND AND SITE IMPROVEMENTS;  
EQUIPMENT AND APPURTENANCES.

DESIGN

TOTAL FUNDING

AGS

B

425

425B''

(10) By amending Item G-77 to read:

“77. GOVERNOR WALLACE RIDER FARRINGTON HIGH SCHOOL, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR  
THE RENOVATION AND/OR EXPANSION OF THE  
VOCATIONAL BUILDING(S) AT FARRINGTON  
HIGH SCHOOL.

DESIGN

CONSTRUCTION

EQUIPMENT

TOTAL FUNDING

AGS

1

748

1

750C

C''

(11) By amending Item G-102A to read:

“102A. ALVAH A. SCOTT ELEMENTARY SCHOOL, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR  
THE EXPANSION OF THE SCHOOL LIBRARY;  
RENOVATION OF THE EXISTING LIBRARY;  
GROUND AND SITE IMPROVEMENTS;  
EQUIPMENT AND APPURTENANCES.

DESIGN

CONSTRUCTION

EQUIPMENT

TOTAL FUNDING

AGS

C

160

949

1

1,110C''

(12) By amending Item H-3A to read:

|  |     |   |  |          |
|--|-----|---|--|----------|
| “3A. KONA COFFEE HERITAGE PARK, HAWAII |     |   |  |          |
| PLANS, LAND ACQUISITION, DESIGN, AND   |     |   |  |          |
| CONSTRUCTION FOR THE KONA COFFEE       |     |   |  |          |
| HERITAGE PARK FOR THE KONA HISTORICAL  |     |   |  |          |
| SOCIETY. THIS PROJECT QUALIFIES AS A   |     |   |  |          |
| GRANT, PURSUANT TO CHAPTER 42D, HRS.   |     |   |  |          |
| PLANS                                  |     |   |  | 1        |
| LAND                                   |     |   |  | 155      |
| DESIGN                                 |     |   |  | 1        |
| CONSTRUCTION                           |     |   |  | [198] 43 |
| TOTAL FUNDING                          | LNR | B |  | 200B”    |

SECTION 139. Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, is amended by amending Item K-40 to read:

|   |     |  |        |    |
|---|-----|--|--------|----|
| “40. WATER SOURCE DEVELOPMENT, MAUI         |     |  |        |    |
| CONSTRUCTION FOR WATER SOURCE               |     |  |        |    |
| DEVELOPMENT IN CENTRAL MAUI. STATE          |     |  |        |    |
| <u>FUNDS SHALL BE MATCHED BY THE COUNTY</u> |     |  |        |    |
| <u>OF MAUI BY A 40% COUNTY FUNDS</u>        |     |  |        |    |
| <u>PARTICIPATION FOR THE TOTAL WATER</u>    |     |  |        |    |
| <u>SOURCE DEVELOPMENT.</u>                  |     |  |        |    |
| CONSTRUCTION                                |     |  | 7,770  |    |
| TOTAL FUNDING                               | COM |  | 7,770C | C” |

SECTION 140. Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, as amended by Act 289, Session Laws of Hawaii 1993, section 134, is amended by amending Item K-41A to read:

|  |     |   |  |         |
|--|-----|---|--|---------|
| “41A. KAHAKAPAO RESERVOIR, MAUI        |     |   |  |         |
| CONSTRUCTION FOR THE KAHAKAPAO         |     |   |  |         |
| RESERVOIR SYSTEM IN UPCOUNTRY MAUI.    |     |   |  |         |
| STATE FUNDS SHALL BE MATCHED BY THE    |     |   |  |         |
| COUNTY OF MAUI BY A 40% COUNTY FUNDS   |     |   |  |         |
| <u>PARTICIPATION FOR THE KAHAKAPAO</u> |     |   |  |         |
| <u>RESERVOIR SYSTEM.</u>               |     |   |  |         |
| CONSTRUCTION                           |     |   |  | 5,000   |
| TOTAL FUNDING                          | COM | C |  | 5,000C” |

SECTION 141. Any law to the contrary notwithstanding, the appropriations under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, are hereby lapsed:

| “Item No.  | Amount (MOF) |
|------------|--------------|
| AGR 131-2B | \$ 14,610 C  |
| AGR 132-3A | 3,896 C      |
| AGR 192-5E | 85,000 C     |
| LNR 153-5F | 800,000 C    |
| BED 120-8A | 7,800,000 E  |
| LNR 141-9  | 5,000 C      |

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| LNR 141-10A     | 45,000 C            |
| LNR 141-10B     | 20,000 C            |
| TRN 102-2       | 7,000,000 B         |
| TRN 102-2       | 2,500,000 N         |
| TRN 102-3       | 8,496,000 E         |
| TRN 102-4       | 3,000,000 E         |
| TRN 102-7       | 3,595,000 E         |
| TRN 102-9       | 1,750,000 E         |
| TRN 102-10      | 1,031,000 E         |
| TRN 102-11      | 78,802,555 E        |
| TRN 111-13      | 4,510,000 B         |
| TRN 111-13A     | 3,496,000 E         |
| TRN 114-14      | 20,000,000 E        |
| TRN 131-15      | 27,148,000 E        |
| TRN 131-15      | 4,500,000 N         |
| TRN 131-16      | 10,468,079 B        |
| TRN 131-16      | 3,000,000 N         |
| TRN 161-18      | 6,560,100 B         |
| TRN 161-18      | 3,500,000 E         |
| TRN 161-18      | 2,100,000 N         |
| TRN 195-20      | 7,000,000 E         |
| TRN 301-22      | 2,500,000 E         |
| TRN 501-43      | 700,000 E           |
| TRN 501-46      | 504,000 E           |
| TRN 501-53      | 300,000 E           |
| TRN 511-63      | 31,500,000 E        |
| TRN 531-70      | 27,000 B            |
| TRN 531-74A     | 8,000,000 B         |
| TRN 531-74C     | 825,000 B           |
| LNR 402-1A      | 5,000 C             |
| HTH 111-1       | 14,610 C            |
| HTH 111-2       | 14,610 C            |
| HTH 111-3       | 16,000 C            |
| HTH 212-4       | 104,000 C           |
| HTH 214-5       | 16,000 C            |
| HTH 214-5A      | 16,000 C            |
| HTH 215-6       | 115,900 C           |
| HTH 221-7       | 8,900 C             |
| HTH 221-8       | 8,900 C             |
| HTH 221-9       | 16,000 C            |
| HTH 223-10      | 6,818 C             |
| HTH 231-11      | 1,948 C             |
| HTH 232-13      | 4,870 C             |
| HTH 241-14      | 45,000 C            |
| HTH 242-14A     | 151,000 B           |
| HTH 420-16B     | 14,000 C            |
| HTH 420-16C     | 36,038 C            |
| HTH 501-17A     | 520,000 C           |
| HTH 610-18      | 43,830 C            |
| HTH 907-18A     | 38,960 C            |
| HTH 907-18B     | 7,300 C             |
| BUF 225-3       | 1,000,000 C         |

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| EDN 100-15A     | 195,000 B           |
| EDN 100-29      | 1,185,000 B         |
| EDN 100-33      | 225,000 B           |
| EDN 100-38      | 150,000 B           |
| EDN 100-52      | 150,000 B           |
| EDN 100-74      | 85,000 C            |
| EDN 407-107     | 90,000 C            |
| UOH 100-113     | 8,760 C             |
| UOH 100-114     | 45,780 C            |
| UOH 100-115     | 14,600 C            |
| UOH 100-116     | 74,000 C            |
| UOH 100-117     | 170,000 C           |
| UOH 100-117B    | 64,000 C            |
| UOH 310-120     | 40,000 C            |
| UOH 330-121     | 53,600 C            |
| UOH 600-122A    | 24,350 C            |
| UOH 900-123A    | 126,600 C           |
| LNR 802-2       | 2,000 C             |
| LNR 806-4       | 65,850 C            |
| LNR 806-5       | 48,132 C            |
| LNR 806-6       | 46,200 C            |
| LNR 806-7       | 4,200 C             |
| LNR 806-8       | 10,000 C            |
| LNR 801-9       | 2,000 C             |
| LNR 801-9A      | 2,000 B             |
| AGS 889-10      | 1,560,000 B         |
| AGS 889-10      | 100,000 C           |
| AGS 889-14      | 384,000 B           |
| PSD 405-4       | 62,300 C            |
| PSD 408-5A      | 48,700 C            |
| PSD 900-6A      | 450,000 C           |
| LNR 810-7       | 10,000 C            |
| GOV 103-3       | 50,000 C            |
| LNR 101-7       | 1,200,000 B         |
| LNR 101-8       | 10,000 B            |
| LNR 101-9       | 1,470,000 B         |
| LNR 101-9A      | 150,000 B           |
| LNR 101-9B      | 11,000 B            |
| AGS 221-11      | 300,000 C           |
| AGS 221-12      | 48,700 C            |
| SUB 301-21C     | 1,100,000 C         |
| SUB 301-21E     | 400,000 C''         |

SECTION 142. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| HTH 420-10       | \$ 33,195 C         |
| BUF 225-15       | 33,950 C            |
| EDN 105-91C      | 3,275 A             |

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| EDN 105-91D     | 29,000 A            |
| EDN 105-91F     | 10,000 A            |
| LNR 806-10      | 5,000 C             |
| LNR 806-13      | 17,819 C            |
| LNR 806-23      | 877 C               |
| TRN 801-31      | 23,874 D            |
| TRN 801-32      | 50,000 D            |
| TRN 801-34      | 65,000 D            |
| TRN 801-41      | 128,437 D           |
| AGR 812-1       | 40,000 C            |
| LNR 101-13      | 7,500 C''           |

SECTION 143. Any law to the contrary notwithstanding, the appropriation under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, as amended and renumbered by Act 289, Session Laws of Hawaii 1993, section 134, in the amount indicated or balance thereof, is hereby lapsed:

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| BUF 225-18A     | \$25,837,700 C''    |

SECTION 144. Any law to the contrary notwithstanding, the appropriation under Act 317, Session Laws of Hawaii 1991, section 2, in the amount indicated or balance thereof, is hereby lapsed:

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| EDN 105-89      | \$ 10,277 C''       |

SECTION 145. Any law to the contrary notwithstanding, the appropriations under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| BED 102-4B      | \$ 16,870 A         |
| AGR 121-5       | 4,216 A             |
| AGR 151-7       | 2,000 A             |
| AGR 141-19      | 20,000 A            |
| AGR 141-26      | 3,000 A             |
| HTH 211-7B      | 8,002 A             |
| HTH 215-9       | 25,120 A            |
| HTH 601-15A     | 956 A               |
| HTH 907-18      | 29,923 A            |
| HMS 220-2       | 9,126 A             |
| HMS 220-4       | 18,624 A            |
| HMS 220-7       | 385 A               |
| HMS 220-10      | 56 A                |
| HMS 220-19      | 6,665 A             |
| HMS 220-22      | 35 A                |
| EDN 407-143     | 107,164 A           |
| UOH 101-151     | 173,954 A           |
| UOH 101-151     | 1,000,000 C         |
| UOH 311-170     | 39,169 A            |



| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| UOH 501-172     | 252,083 A           |
| UOH 501-172C    | 1,187 A             |
| UOH 605-173A    | 311 A               |
| LNR 806-5       | 7,966 A             |
| LNR 806-11      | 4,746 C             |
| LNR 806-15      | 867 C               |
| LNR 806-17      | 40,000 C            |
| DOC 406-1A      | 244,108 A           |
| DOC 407-2       | 55,000 A            |
| DOC 403-3       | 12,151 A            |
| DOC 903-5       | 46,548 A            |
| DOC 903-5A      | 1,656 A             |
| AGS 221-19      | 6,007 A             |
| AGS 221-22A     | 15,575 A            |
| AGS 221-25      | 3,964 A             |
| SUB 301-39C     | 983 A ”             |

SECTION 146. Any law to the contrary notwithstanding, the appropriations under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, as amended by Act 296, Session Laws of Hawaii 1991, section 178, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>“Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| DOC 903-5C       | \$ 130 A            |
| AGR 812-2        | \$ 658,658 A ”      |

SECTION 147. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1990, section 2, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>“Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| HTH 211-1        | \$ 447 A            |
| HTH 401-2        | 1,564 A             |
| HMS 220-10       | 171 A               |
| HMS 229-14       | 3,360 A             |
| HMS 229-17       | 1,284 A             |
| HMS 229-18       | 700 A               |
| HMS 229-19       | 9,030 A             |
| EDN 105-24       | 2,530 A             |
| EDN 105-67       | 627 A               |
| EDN 105-101      | 200 A               |
| EDN 105-113      | 8,572 A             |
| EDN 105-128      | 47,434 A            |
| EDN 105-148      | 12,552 A            |
| EDN 105-151      | 9,967 A             |
| EDN 105-174      | 29,522 A            |
| LNR 806-5        | 14 A                |
| LNR 101-2        | 3,000 A             |
| AGS 221-3        | 34,773 A            |
| AGS 221-10       | 61,875 A ”          |

## ACT 218

SECTION 148. Any law to the contrary notwithstanding, the appropriations under Act 314, Session Laws of Hawaii 1989, section 2, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| LNR 806-3        | \$ 2,895 C          |
| LNR 806-6        | 18,688 C"           |

SECTION 149. Any law to the contrary notwithstanding, the appropriations under Act 216, Session Laws of Hawaii 1987, section 280, as amended and renumbered by Act 390, Session Laws of Hawaii 1988, section 6, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| AGR 151-14       | \$ 1,742 A          |
| BED 120-18       | 30,000 A            |
| LNR 141-28       | 30,000 A            |
| LNR 141-31       | 1,000 A             |
| EDN 107-46       | 420,760 A           |
| EDN 407-56       | 65,702 A            |
| UOH 101-68B      | 12,180 C            |
| UOH 311-88       | 49,362 A            |
| LNR 806-9        | 24,324 C            |
| LNR 806-13       | 1,678 C             |
| LNR 806-14       | 15,454 C            |
| LNR 806-17       | 31 C                |
| LNR 806-20       | 8,103 C             |
| LNR 806-24       | 1,574 C             |
| LNR 806-26       | 500 C               |
| LNR 806-27       | 227 C               |
| LNR 806-28       | 30,566 C            |
| LNR 806-29       | 3,743 C             |
| LNR 806-44       | 12,985 C            |
| LNR 806-45       | 4,807 C             |
| LNR 809-62       | 1,700 C"            |

SECTION 150. Any law to the contrary notwithstanding, the appropriation under Act 216, Session Laws of Hawaii 1987, section 280, as amended and renumbered by Act 390, Session Laws of Hawaii 1988, section 6, as amended by Act 299, Session Laws of Hawaii 1990, section 7, in the amount indicated or balance thereof, is hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| TRN 301-25A      | \$ 1,496,750 D"     |

SECTION 151. Any law to the contrary notwithstanding, the appropriations under Act 2, Special Session, Session Laws of Hawaii 1988, section 2, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| HTH 801-5        | \$ 2,949 A          |
| EDN 105-33       | 2,172 A             |

| <u>Item No.</u> | <u>Amount (MOF)</u> |
|-----------------|---------------------|
| EDN 105-139     | 1,714 A             |
| EDN 204-191     | 1,378 A             |
| LNR 101-1       | 35,000 A "          |

SECTION 152. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1985, section 136, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, section 6, in the amounts indicated or balances thereof, are hereby lapsed:

| <u>"Item No.</u> | <u>Amount (MOF)</u> |
|------------------|---------------------|
| LNR 801-4        | \$ 1,922 C          |
| LNR 801-6        | 5,900 C             |
| DEF 110-9        | 45,000 C            |
| DEF 110-9        | 920,000 N           |
| DEF 110-10       | 580,000 C           |
| DEF 110-10       | 920,000 N "         |

## PART VI. ISSUANCE OF BONDS

SECTION 153. **GOVERNOR'S DISCRETIONARY POWERS.** When it is deemed in the public interest of the State, the governor, in the governor's discretion, is authorized to use general fund savings or balances determined to be available from authorized general fund program appropriations to finance capital improvements program projects authorized in this Act or any other act currently authorized by the legislature, where the method of financing is designated to be the general obligation bond fund. Any law or provision to the contrary notwithstanding, the governor may replace general obligation bond funds appropriated for capital improvements program projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project.

SECTION 154. **AIRPORT REVENUE BONDS.** The department of transportation is authorized to issue airport revenue bonds for airport capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such airport revenue bonds during the estimated period of construction of the capital improvements program project for which such airport revenue bonds are issued, to establish, maintain, or increase reserves for such airport revenue bonds or airport revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such airport revenue bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such airport revenue bonds, to the extent not paid from the proceeds of such airport revenue bonds, shall be payable from and secured by the revenues derived from airports and related facilities under the ownership of the State or operated and managed by the department and from the

aviation fuel taxes levied and paid pursuant to sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, or such part of either thereof as the department may determine, including rents, landing fees, and other fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the airport revenue fund.

The governor, in his discretion, is authorized to use moneys in the airport revenue fund to finance those airport capital improvements program projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by revenue bond funds.

**SECTION 155. HARBOR REVENUE BONDS.** The department of transportation is authorized to issue harbor revenue bonds for harbor capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such harbor revenue bonds during the estimated period of construction of the capital improvements program project for which such harbor revenue bonds are issued, to establish, maintain, or increase reserves for such harbor revenue bonds or harbor revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such harbor revenue bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such harbor revenue bonds, to the extent not paid from the proceeds of such harbor revenue bonds, shall be payable from and secured by the revenues derived from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilot fees, and other fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the harbor special fund.

The governor, in his discretion, is authorized to use moneys in the harbor special fund to finance those harbor capital improvements program projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be revenue bond funds.

**SECTION 156. HIGHWAY REVENUE BONDS.** The department of transportation is authorized to issue highway revenue bonds for highway capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such highway revenue bonds during the estimated period of construction of the capital improvements program project for which such

highway revenue bonds are issued, to establish, maintain, or increase reserves for such highway revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such highway revenue bonds. The aforementioned highway revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such highway revenue bonds, to the extent not paid from the proceeds of such highway revenue bonds, shall be payable from and secured by the revenues derived from highways and related facilities under the ownership of the State or operated and managed by the department, and from the highway fuel taxes, vehicle weight taxes, and vehicle registration fees, levied and paid pursuant to sections 243-4, 248-8, 249-31, and 249-33, Hawaii Revised Statutes, and federal moneys received by the State or any department thereof which are available to pay principal of and/or interest on indebtedness of the State, or such part of any thereof as the department may determine, and other user taxes, fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of highways and related facilities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such highway revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the State highway fund.

The governor, in his discretion, is authorized to use moneys in the State highway fund to finance those highway capital improvements program projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by revenue bond funds.

**SECTION 157. SMALL BOAT HARBOR REVENUE BONDS.** The department of land and natural resources is authorized to issue small boat harbor revenue bonds for small boat harbor capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such small boat harbor revenue bonds during the estimated period of construction of the capital improvements program project for which such small boat harbor revenue bonds are issued, to establish, maintain, or increase reserves for such small boat harbor revenue bonds or small boat harbor revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such small boat harbor revenue bonds. The aforementioned small boat harbor revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such small boat harbor revenue bonds, to the extent not paid from the proceeds of such small boat harbor revenue bonds, shall be payable from and secured by the revenues derived from small boat harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and permit fees, and other fees or charges currently or hereafter derived from or arising through the ownership and operation of small boating activities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such small boat harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the harbor special fund.

**SECTION 158. PUBLIC FACILITY REVENUE BONDS.** The Hawaii Community Development Authority is authorized to issue revenue bonds for public

facility projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated to construct, acquire, remodel, furnish, and equip any public facility, including acquisition of the site thereof. Additionally, if so determined by the Authority and approved by the governor, such additional principal amount as may be deemed necessary by the Authority to pay interest on such revenue bonds during the estimated period of construction of the capital improvements program project for which such public facility revenue bonds are issued, to establish, maintain, or increase reserves for such public facility revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such public facility revenue bonds. The aforementioned public facility revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such public facility revenue bonds, to the extent not paid from the proceeds of such public facility revenue bonds, shall be payable from and secured by the revenues derived from the public facility for which the revenue bonds are issued, including revenue derived from insurance proceeds and reserve accounts and earnings thereon.

**SECTION 159. CONVENTION CENTER REVENUE BONDS.** The Convention Center Authority is authorized to issue convention center revenue bonds for capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the Authority and approved by the governor, such additional principal amount as may be deemed necessary by the Authority to pay interest on such convention center revenue bonds during the estimated period of construction of the capital improvements program project for which such convention center revenue bonds are issued, to establish, maintain, or increase reserves for such convention center revenue bonds, and to pay all or any part of the expenses related to the issuance of such convention center revenue bonds. The aforementioned convention center revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such convention center revenue bonds, to the extent not paid from the proceeds of such convention center revenue bonds, shall be payable from and secured by revenues available pursuant to section 237D-6.5, Hawaii Revised Statutes, by the revenues derived from a convention center facility or facilities and related facilities under the ownership of the State or operated and managed by the Authority, and other rates, rents, fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of convention center facilities and related facilities and the furnishing and supplying of the services thereof.

## **PART VII. SPECIAL PROVISIONS**

**SECTION 160.** Provided that to the extent that the sums appropriated for the payment of principal and interest on general obligation bonds are insufficient to meet and pay all such obligations when due in accordance with the terms of such bonds, the governor shall direct the utilization of any or all appropriations available or unexpended from any other state program, as the first charge for the payment of principal and interest of the bonds when due; provided further that the legislature

shall, under procedures established in section 10 of article III of the Hawaii State Constitution, meet in special session to comply with the provisions of section 12 of article VII of the Hawaii State Constitution, which pledge the full faith and credit of the State for the payment of principal and interest on all general obligation and reimbursable general obligation bonds.

SECTION 161. There is hereby appropriated out of the public trust fund created by section 5(f) of the Admissions Act (Public Law No. 86-3) the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom granted to the State by section 5(b) or later conveyed to the State by section 5(e), with the exception of such proceeds covered under section 171-19, Hawaii Revised Statutes, to be disposed of by the board of land and natural resources, and with the exception of such proceeds to be expended by the office of Hawaiian affairs under chapter 10, Hawaii Revised Statutes, in order to reimburse the general fund for the appropriation made in Part II of this Act to the department of education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1995 to June 30, 1997. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

SECTION 162. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the governor, or the director of finance, if so delegated by the governor, shall transfer the necessary funds and positions to the proper expending agency; provided further that the governor shall submit a report of all such transfers to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 163. No appropriation authorized in this Act shall be considered to be a mandate, under section 5 of article VIII of the Hawaii State Constitution, for a political subdivision to undertake new programs to increase the level of services under existing programs of that political subdivision. If any appropriation authorized in this Act falls within the provisions of section 5 of article VIII of the Hawaii State Constitution, such authorization shall be void and, in the case of capital improvements program project appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized for such projects shall be correspondingly decreased.

SECTION 164. With the approval of the director of finance, the department of health may transfer to the department of human services funds appropriated to the department of health for the care and treatment of patients whenever the department of human services can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents.

The department of human services is hereby authorized to enter into agreements with the department of health to furnish outpatient, hospital, and skilled nursing home care and to pay the department of health for such care. With the approval of the director of finance, the department of health may deposit part of such receipts into the appropriations from which the transfers were made.

SECTION 165. Unless otherwise provided in this Act, the governor is authorized to transfer operating funds between appropriations with the same means of funding, within an expending agency for operating purposes; provided that the

governor shall submit a report on all such transfers no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 166. Except as otherwise provided in this Act, each department or agency is authorized to transfer positions within its respective authorized position ceiling, for the purpose of maximizing the utilization of personnel resources and staff productivity; provided that all such actions shall be with the prior approval of the governor, and shall be consistent with provisions of part II of chapter 37 of the Hawaii Revised Statutes; provided further that it is the intent of the legislature that the purpose of this section is to ensure minimal disruption to program activity and that this section shall not be construed as an authorization to create either new positions or program functions; and provided further that each department shall submit a report on all such transfers to the legislature within ten days after such transfers detailing the programs affected, the necessity for the transfer, the positions affected, the amounts of funds by means of financing, and the programmatic impact of such transfers.

SECTION 167. Provided that of the respective appropriation for each principal state department as defined by section 26-4, Hawaii Revised Statutes, the sum of \$5,000 for each year of the fiscal biennium 1995-1997 shall be made available in each department to be established as a separate account for a protocol fund to be expended at the discretion of the executive heads of such departments which are respectively known as its directors, chairpersons, comptroller, adjutant-general, superintendent, president, and attorney general; provided further that the sum of \$5,000 for each year of the fiscal biennium shall be made available in the office of the governor and the office of the lieutenant governor to establish a separate account for a protocol fund to be expended at the discretion of the chief of staff and the executive officer respectively.

SECTION 168. The governor is hereby authorized to establish two permanent positions during the fiscal year 1995-1996 and two permanent positions during the fiscal year 1996-1997 to be allocated by the governor to any of the program areas included in this Act as the governor shall deem proper; provided these positions shall be exempt from chapters 76 and 77, Hawaii Revised Statutes; provided further that the governor shall submit a report to the legislature on the creation of all such positions no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 169. Where any agency is authorized by general law to secure funds or other property from private organizations or individuals to be expended or utilized in connection with any program authorized by this Act, the agency, with the governor's approval, shall have the power to enter into such undertaking, provided that the provisions of this section are consistent with applicable State Constitutional and statutory requirements.

SECTION 170. In the event the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 171. Any law or provision of this Act to the contrary notwithstanding, the appropriations made for capital improvements program projects



authorized under this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in the fiscal biennium 1995-1997 which are encumbered as of June 30, 1998, shall lapse as of that date; provided further that this lapsing date shall not apply to the appropriations for the projects described in section 99 of this Act which are denoted as necessary to qualify for federal aid financing and reimbursement and which appropriations in their entirety the legislature hereby determines are necessary to qualify for federal aid financing and reimbursement.

SECTION 172. With the approval of the governor, designated expending agencies for capital improvements program projects authorized in this Act may delegate to other state or county agencies the implementation of such projects when it is determined by all involved agencies and parties that it is advantageous to do so; provided that a summary report shall be submitted to the legislature detailing all delegated projects as of December 31 and June 30 for each fiscal year.

SECTION 173. All general obligation bond funds used for a public undertaking, improvement, or system, designated by the letter (D), shall have the bond principal and interest reimbursed from the special fund in which the net revenue, or net user tax receipts, or combination of both, of such public undertaking, improvement, or system, are deposited or credited. Bonds issued for irrigation and housing projects shall be reimbursed, as provided by section 174-21 and chapter 201E, Hawaii Revised Statutes, respectively.

The governor is authorized to use, at the governor's discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the special land and development fund, the economic development special fund, or other appropriate special fund, to finance the respective public undertaking, improvement, or system described above and authorized in this Act, where the method of financing is designated to be by general obligation bond fund with debt service cost to be paid from the funds; provided that the governor shall submit a report to the legislature on such changes in the method of financing of such projects.

SECTION 174. Where county capital improvements program projects are partially or totally funded by state grants-in-aid as authorized by this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 175. Except as otherwise provided by general law, negotiations for the purchase of land by state agencies shall be subject to the approval of the governor and the department of land and natural resources. Private lands may be acquired for the purpose of exchange for federal lands when the department of land and natural resources and the governor determine that such acquisition and exchange are necessary for the completion of any project specifically authorized by this Act.

SECTION 176. After the objectives of appropriations made in this Act from the general obligation bond fund or the general fund for capital improvements program projects have been met, unrequired balances shall be transferred to the project adjustment fund appropriated in Part II and described in Part IV of this Act and shall be considered a supplementary appropriation thereto; provided that all other unrequired allotment balances, unrequired appropriation balances, and unrequired encumbrance balances shall lapse as of June 30, 1998, as provided in section 171 of this Act.

**SECTION 177.** In the event that authorized appropriations specified for capital improvements program projects listed in this Act or in any other act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the general obligation bond fund or the general fund, the governor may make supplemental allotments from the project adjustment fund appropriated in part II and described in part IV of this Act to supplement any currently authorized capital investment cost elements; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; provided further that such supplemental allotments for this Act shall not exceed ten per cent of the total cost of the recipient project where such total cost does not exceed \$1,000,000; and such supplemental allotments for this Act shall not exceed five per cent of the total cost of the recipient project, where such total cost is \$1,000,000 or more; and provided further that the governor shall submit a report to the legislature on all such supplemental allotments no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 178.** Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any cost element for a capital improvements program project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project, by this Act or by any other prior or future Act which have not lapsed, provided that the total expenditure of funds for all cost elements shall not exceed the total appropriations for that project.

**SECTION 179.** In the event that the amount specified for a capital improvements program project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond funds, the governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the projects or transfer unrequired balances from other un-lapsed projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, or revenue bond funds; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that the governor shall submit a report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 180.** The governor may authorize the expenditure of funds for capital improvements program projects not previously authorized in this Act to cope with the effects of recession, unemployment, natural disasters, unforeseen emergencies, and for any federal aid portion of any capital improvements program project described in this Act where application for such aid has been made and approval has been denied; provided that the effects of recession, unemployment, natural disaster, emergencies, or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; and provided further that the governor shall use the project adjustment fund authorized in part II and described in part IV of this Act to accomplish the purposes of this section.

**SECTION 181.** The governor is authorized to transfer savings as may be available from the appropriated funds of any programs in this Act to supplement the appropriation for any other program in this Act to cope with the effects of natural disaster and other unforeseen emergencies; provided that the effects of natural

disaster, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided further that the legislature shall be notified in writing of such transfer of funding no later than fourteen days after the transfer is made.

SECTION 182. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvements program project described in this Act, the governor may authorize such reduction of the project's scope.

SECTION 183. In releasing funds for capital improvements program projects, the governor shall consider the legislative intent and the objectives of the user agency and its programs, the scope and level of the user agency's intended service, and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 184. Provided that notwithstanding any position ceilings, the governor may transfer positions or funds between existing programs of the state executive branch for the purpose of establishing and maintaining integrated state-wide data processing and communications systems; provided further that the governor shall submit a report to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 185. All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes.

SECTION 186. Any law or provision to the contrary notwithstanding, in evaluating the level of funding for social welfare programs, education programs, and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, the department of budget and finance shall identify the amounts of funds necessary to sustain program activities at a level consistent with the intent of the legislature; provided further that the department of budget and finance shall report to the legislature all such instances of programs receiving funds in excess of their actual needs; provided further, of agencies concerned in the event of actual population and workload trends which are less than the figures so appropriated by the legislature, the department of budget and finance is authorized to transfer such funds solely for the purpose of addressing deficiencies in payment programs mandated by either state or federal law; and provided further that the department of budget and finance shall prepare a report, identifying the nature and amount of such transfers, to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 187. For the fiscal biennium 1995-97, where a program is authorized under part II of this Act to expend from a trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures in excess of the amount indicated part II are approved by the governor; provided further that such expenditures shall not exceed the amounts available in such funds; and provided further that the governor shall submit a report on all such expenditures in excess of the amounts

indicated in Part II no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 188. Except as otherwise provided, or except as prohibited by specific grant conditions, all federal fund reimbursements received by state programs shall be returned to the general fund, or any other appropriate program fund; provided that a report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 189. Provided that to facilitate better fiscal accountability for the executive branch, the department of budget and finance shall be the lead agency in coordinating the following:

- (1) Providing the legislature electronic access to executive budget data including, but not limited to, on-line read only access to the state of Hawaii's fiscal accounting and management system (FAMIS);
- (2) Coordinating with the department of accounting and general services to integrate the budget journal (BJ) tables with the fiscal accounting and management information system, so that actual expenditure data for prior fiscal years can be displayed in the BJ tables;

provided further that for paragraph (1) of this section, the legislature shall acquire on-line access to the FAMIS system no later than sixty days prior to the convening of the 1996 regular legislative session; provided further that adequate training in the use of this system shall be provided for the appropriate staff of both the Hawaii State senate ways and means and the house of representatives finance committees; and provided further that for paragraph (2) of this section, a report on the status of efforts to integrate the respective systems, and a projection of the cost of implementation of this integration, shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 190. Provided that the proposed amendments to this Act, pursuant to section 37-72(a), Hawaii Revised Statutes, shall be accompanied by supporting documentation; provided further that this documentation shall include, but not be limited to, the following:

- (1) Detailed descriptions and justifications for each workload and program change request;
- (2) Detailed descriptions of all transfers of positions and funds between departments, programs, and cost elements; and
- (3) The appropriate personnel to provide information on the respective requests;

provided further that all such information shall corroborate exactly with the executive supplemental budget, and provided further that these details shall be submitted by all departments to the legislature no later than twenty days prior to the convening of the 1996 regular session.

SECTION 191. Provided that proposed adjustments to the program structure, or to organization codes, must be presented to the Legislature as such; provided further that these adjustments must clearly identify position counts and funds utilized by either the program identification number or organization code prior to the adjustment for all means of financing; and provided further that position counts and funds utilized by the adjusted program or organization code must be clearly identified for each means of financing.

SECTION 192. Provided that for all federal funds received subsequent to the convening of the 1996 and 1997 regular sessions, each department shall submit a

report to the legislature detailing the receipt of such funds no later than ten days upon notification of the receipt of such funds; provided further that this report shall detail the amount of funds received, the anticipated duration of the funds being received, a brief narrative of the purposes for such funds, and a summary of any state matching requirements; provided further that the governor may allow for an increase in the federal fund ceiling for the department to accommodate the expenditure of such funds; and provided further that the governor shall submit to the legislature a summary of all such funds received no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 193. Provided that for all established permanent position counts, the position count must be inextricably linked to the means of financing under which the position count was originally appropriated.

SECTION 194. Provided that the department of budget and finance, in conjunction with the department of accounting and general services and the department of human resources development, shall identify all currently unbudgeted positions; provided further that for the purposes of this section, "unbudgeted" shall be defined as those positions assigned a position number by the department of human resources development, under the pay of the state executive branch, and not reflected in the budget journal (BJ) tables as maintained by the department of budget and finance; and provided further that the department of budget and finance shall submit a report to the legislature including, but not limited to, the following:

- (1) The identification of all such positions;
- (2) The department and program in which the positions serve;
- (3) The position title;
- (4) The current actual salary of the position; and

provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

## **PART VIII. MISCELLANEOUS AND EFFECTIVE DATE**

SECTION 195. **MISCELLANEOUS.** If any portion of this Act or its application to any person, entity or circumstance is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 196. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors.

SECTION 197. Material to be repealed is bracketed. New material in prior enacted laws is underscored.

SECTION 198. **EFFECTIVE DATE.** This Act shall take effect on July 1, 1995.

(Approved June 21, 1995.)

### **Note**

1. Item vetoed, replaced, and initialized "BJC".

## A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13 of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance," the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in Article VII, section 13 of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, section 13.
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1994-1995 and estimated for each fiscal year from 1995-1996 to 1998-1999, is as follows:

| Fiscal Year | Net General Fund Revenues | Debt Limit    |
|-------------|---------------------------|---------------|
| 1991-1992   | \$2,672,238,596           |               |
| 1992-1993   | 2,801,180,523             |               |
| 1993-1994   | 3,054,307,502             |               |
| 1994-1995   | 2,956,796,187             | \$525,876,475 |
| 1995-1996   | 3,091,420,179             | 543,424,193   |
| 1996-1997   | 3,256,720,921             | 561,322,305   |
| 1997-1998   | 3,445,413,617             | 573,804,466   |
| 1998-1999   | (Not Applicable)          | 603,935,874   |

For fiscal years 1994-1995, 1995-1996, 1996-1997, 1997-1998, and 1998-1999 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1991-1992, 1992-1993, and 1993-1994 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1994, dated November 30, 1994. The net general fund revenues for fiscal years 1994-1995 to 1997-1998 are estimates, based on general fund revenue estimates made as of April 6, 1995, by the council on revenues, the body assigned by Article VII, section 7 of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of March 1, 1995 is as follows for fiscal year 1995-96 to fiscal year 2001-2002:

| Fiscal<br>Year         | Principal<br>and Interest |
|------------------------|---------------------------|
| 1995-1996              | \$379,977,185             |
| 1996-1997              | 373,882,581               |
| 1997-1998 <sup>1</sup> | 360,684,152               |
| 1998-1999              | 332,796,331               |
| 1999-2000              | 317,341,580               |
| 2000-2001              | 268,165,837               |
| 2001-2002              | 251,919,022               |

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2002-2003 to fiscal year 2014-2015 when the final installment of \$15,815,313 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$202,000,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of February 28, 1995, adjusted for (1) the issuance of \$268,000,000 general obligation bonds of 1995, Series CJ, and (2) lapses as provided in House Bill No. 1220, H.D. 1, S.D. 1, C.D. 1<sup>2</sup> (the General Appropriations Act of 1995) amounting to \$36,141,231, the total amount of authorized but unissued general obligation bonds is \$637,189,578. The total amount of general obligation bonds authorized by this Act is \$1,044,804,000. The total amount of general obligation bonds previously authorized and unissued and the

general obligation bonds authorized by this Act is \$1,681,993,578. (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$202,000,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.

- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1995-1996, 1996-1997, 1997-1998, and 1998-1999, the State proposes to issue \$200,000,000 during the remainder of fiscal year 1994-1995, \$100,000,000 during the first half of fiscal year 1995-1996, \$300,000,000 during the second half of fiscal year 1995-1996, \$233,000,000 during the first half of fiscal year 1996-1997, \$449,000,000 during the second half of fiscal year 1996-1997 and \$100,000,000 semiannually in each of fiscal years 1997-1998 through 1998-1999. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1994-1995 to 1997-1998 is \$1,482,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1998-1999. The total amount of \$1,482,000,000 which is proposed to be issued through fiscal year 1997-1998 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,681,993,578, as reported in paragraph (4), except for \$199,993,578. It is assumed that the appropriations to which an additional \$199,993,578 in bond issuance needs to be applied will have been encumbered as of June 30, 1998. The \$200,000,000 which is proposed to be issued in fiscal year 1998-1999 will be sufficient to meet the requirements of the June 30, 1998 encumbrances in the amount of \$199,993,578. The amount of assumed encumbrances as of June 30, 1998 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1998, and the amount of June 30, 1998 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-97, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under certain condi-



tions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:

- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
- (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 7.34 percent for the ten years from fiscal year 1995-1996 to fiscal year 2004-2005. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13 of the State Constitution for the fiscal years 1994-1995, 1995-1996, 1996-1997, 1997-1998 and 1998-1999 are as follows:

| Fiscal<br>year | Total amount of<br>General Obligation Bonds<br>not otherwise excluded by<br>Article VII, section 13<br>of the State Constitution |
|----------------|--|
| 1994-1995      | \$2,917,537,237  |
| 1995-1996      | 2,679,117,610  |
| 1996-1997      | 2,892,500,018  |
| 1997-1998      | 2,839,709,329  |
| 1998-1999      | 2,792,450,302  |

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guar-

anty will change from a contingent liability to a actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties and the guaranties proposed to be incurred can be excluded.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 6.5 percent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

| Time of Issuance<br>and Amount to be<br>Counted Against<br>Debt Limit | Debt Limit<br>at Time of<br>Issuance | Greatest Amount<br>and Year of<br>Highest Principal<br>and Interest<br>on Bonds and Guaranties |
|---|--------------------------------------|--|
| Remainder of FY 1994-1995   |                                      |  |
| \$190,000,000   | \$525,876,475                        | \$392,327,185 (1995-1996)  |
| 1st half FY 1995-1996   |                                      |  |
| \$95,000,000  | 543,424,193                          | 392,407,581 (1996-1997)  |
| 2nd half FY 1995-1996   |                                      |  |
| \$285,000,000   | 543,424,193                          | 410,932,581 (1996-1997)  |
| 1st half FY 1996-1997   |                                      |  |
| \$221,350,000   | 561,322,305                          | 422,677,458 (1997-1998)  |
| 2nd half FY 1996-1997   |                                      |  |
| \$426,550,000   | 561,322,305                          | 460,850,559 (1999-2000)  |
| 1st half FY 1997-1998   |                                      |  |
| \$95,000,000  | 573,804,466                          | 467,025,559 (1999-2000)  |
| 2nd half FY 1997-1998   |                                      |  |
| \$95,000,000  | 573,804,466                          | 473,200,559 (1999-2000)  |
| 1st half FY 1998-1999   |                                      |  |
| \$95,000,000  | 603,935,874                          | 479,375,559 (1999-2000)  |
| 2nd half FY 1998-1999   |                                      |  |
| \$95,000,000  | 603,935,874                          | 485,550,559 (1999-2000)  |

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of

principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 1220, H.D. 1, S.D. 1, C.D. 1<sup>2</sup> (the General Appropriations Act of 1995), House Bill No. 1262, H.D. 1, S.D. 1, C.D. 1<sup>3</sup> (the Judiciary Appropriations Act of 1995), House Bill No. 1787, H.D. 1, S.D. 2, C.D. 1<sup>3</sup> (Relating to Governmental Assistance), House Bill No. 1828, H.D. 2, S.D. 1, C.D. 1<sup>3</sup> (Relating to Hawaiian Home Lands), House Bill No. 1903, S.D. 1, C.D. 1<sup>3</sup> (Relating to Education), and House Bill No. 1920, H.D. 2, S.D. 2, C.D. 1<sup>3</sup> (Related to the Hawaii Hurricane Relief Fund) passed by this regular session of 1995, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$1,044,804,000. Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 21, 1995.)

#### Notes

1. Changed from 1898.
2. Act 218.
3. Vetoed

## ACT 220

H.B. NO. 111

A Bill for an Act Relating to Lobbying.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 97, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§97- Contested case hearings.** (a) Whenever the state ethics commission preliminarily concludes that a person has violated a provision of this chapter, it may refer the person to the attorney general or the prosecuting attorney for prosecution, or assess an administrative fine pursuant to section 97-7(b). The commission may assess an administrative fine against a person previously referred to the attorney general or prosecuting attorney only if, after the commission refers the matter for

prosecution, the attorney general or prosecuting attorney informs the commission that prosecution will not be initiated.

(b) Before any administrative fine is assessed against a person, the state ethics commission shall offer the person a contested case hearing in accordance with chapter 91. A statement describing the alleged violation and specifying the amount of any administrative fine that the commission believes should be assessed, and a notice informing the person of the person's right to request a contested case hearing shall be served upon the person by:

- (1) Delivering the statement to the person; or
- (2) Sending the statement by registered or certified mail, with request for return receipt and marked deliver to addressee only.

If the person does not request a contested case hearing within twenty days after service has been effected, the preliminary conclusion of the commission shall be final, and shall become a matter of public record, and the specified administrative fine shall be deemed due and owing. Any decision by the commission, including any findings of fact and conclusions of law, shall be a matter of public record. Any administrative fines assessed by the commission in accordance with this chapter shall be a matter of public record."

SECTION 2. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The ethics commission shall have the following powers and duties:
- (1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the gifts disclosure statements required by section 84-11.5 [and the statements and reports required by sections 97-2 and 97-3] and shall establish orderly procedures for implementing the requirements of those provisions[.];
  - (2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the code of ethics. [It shall also render advisory opinions to persons subject to chapter 97.] If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the code of ethics. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, [or person subject to chapter 97] who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion[.];
  - (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings[.];
  - (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized [herein] in this section with respect to any investigation or hearings it shall by formal resolu-

- tion, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry[.];
- (5) It may, from time to time [make,] adopt, amend, and repeal [such] any rules, not inconsistent with this chapter [as], that in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules, when adopted as provided in chapter 91, shall have the force and effect of law[.];
  - (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within three years of an alleged violation of this chapter by a legislator or employee or former legislator or employee. A proceeding shall be deemed commenced by the filing of a charge with the commission or by the signing of a charge by three or more members of the commission. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter[.];
  - (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment[.]; and
  - (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
  - [9] It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists.]”

SECTION 3. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A decision of the commission pertaining to the conduct of any legislator, delegate to the constitutional convention, or employee or person formerly holding such office or employment[, or person subject to chapter 97] shall be in writing and signed by three or more of the members of the commission.”

SECTION 4. Section 84-32, Hawaii Revised Statutes, is amended to read as follows:

“**§84-32 Procedure.** (a) With respect to legislators and employees removable only by impeachment: when the ethics commission after due hearings pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a legislator or an employee removable only by impeachment, it shall issue a complaint and refer the matter to the appropriate body of the legislature. The complaint [must] shall contain a statement of the facts alleged to constitute the violation. If within thirty days after the referral, the legislature has not disposed of the complaint, the commission shall make the charges public. Days during which the legislature is not in session shall not be included in determining the thirty-day period.

(b) With respect to employees other than legislators and employees removable only by impeachment: when the commission after due hearing determines pursuant to section 84-31(d) that there is sufficient cause to file a complaint against an employee other than a legislator, or an employee removable only by impeach-

ment, it shall refer the decision to the governor who shall take appropriate action within sixty days and shall notify the commission of the action taken.

If it is found that a violation has occurred, the governor or the ethics commission by a vote of four members may make the findings and the record of the proceeding public, taking into account the seriousness of the violation.

This subsection shall not prevent the commission from reporting decisions in the yearly summaries required by section 84-31(f).

(c) With respect to former employees: the commission may with the consent of four commissioners issue a public statement of its findings and conclusions, and the attorney general may exercise whatever legal or equitable remedies which may be available to the State.

(d) With respect to delegates to the constitutional convention removable only by impeachment: when the ethics commission after due hearing pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a delegate to the constitutional convention, it shall issue a complaint and refer the matter to the appropriate body of the constitutional convention.

[(e) With respect to persons subject to chapter 97: when the ethics commission after due hearing pursuant to section 84-31(d) determines that a violation of chapter 97 has occurred, it shall refer the matter to the office of the attorney general or the prosecuting attorney for the city and county of Honolulu each of which shall have concurrent jurisdiction. The fact of such referral for prosecution shall be made public by the ethics commission.]”

SECTION 5. Section 97-1, Hawaii Revised Statutes, is amended by amending the definitions of “lobbyist” and “lobbying” to read as follows:

- “(6) “Lobbyist” means any individual [engaged] who for pay or other consideration [who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials.] engages in lobbying in excess of five hours in any month of any reporting period described in section 97-3 or spends more than \$750 lobbying during any reporting period described in section 97-3.
- (7) “Lobbying” means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of [influencing any] attempting to influence legislative or administrative action[.] or a ballot issue.”

SECTION 6. Section 97-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) The following persons shall file a statement of expenditures with the state ethics commission on March 31,<sup>1</sup> May 31, and January 31 of each year:

- (1) Each lobbyist.
- (2) Each person who spends [\$275] \$750 or more of the person’s or any other person’s money in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials[.]; provided that any amounts expended for travel costs, including incidental meals and lodging, shall not be included in the tallying of the \$750.
- (3) Each person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons. If the

person is an industry, trade, or professional association, only the association is the employer of the lobbyist.

(b) The March 31 report shall cover the period from January 1 through the last day of February. The May 31 report shall cover the period from March 1 through April 30. The January 31 report shall cover the period from [March 1] May 1 through December 31 of the [same] previous year.

(c) The statement shall contain the following information:

- (1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day was made by the person filing the statement during the statement period and the amount or value of such expenditure;
- (2) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more was made by the person filing the statement during the statement period and the amount or value of such expenditures;
- (3) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement period in excess of [\$275] \$750 during the statement period;
- (4) The name and address of each person making contributions to the person filing the statement for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of such contributions; and
- (5) The subject area of the legislative and administrative action which was supported or opposed by the person filing the statement during the statement period."

SECTION 7. Section 97-6, Hawaii Revised Statutes, is amended to read as follows:

**"§97-6 Administration.** [It shall be the duty and responsibility of the state ethics commission:] The state ethics commission shall administer and implement this chapter, and shall have the following powers and duties:

- (1) On the verified complaint of any person, to investigate or cause to be investigated on a confidential basis, the activities of any person to determine whether the person is in compliance with this chapter; [and]
- (2) [To refer] Refer for prosecution any violation of section 97-2, 97-3, or 97-5[.];
- (3) Prescribe forms for the statements and reports required by sections 97-2 and 97-3 and establish orderly procedures for implementing the requirements of those provisions;
- (4) Render advisory opinions upon the request of any person subject to this chapter. If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of this chapter. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person subject to this chapter who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such person in the request for an advisory opinion;
- (5) Issue subpoenas, administer oaths, and exercise those powers conferred upon the commission by section 92-16; and
- (6) From time to time, adopt, amend, and repeal such rules, not inconsistent with this chapter as in the judgment of the commission seem

appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules, when adopted as provided in chapter 91, shall have the force and effect of law."

SECTION 8. Section 97-7, Hawaii Revised Statutes, is amended to read as follows:

**"§97-7 Penalties[.]; administrative fines. (a)** Any person who [wilfully];

(1) Wilfully fails to file any statement or report required by this chapter [or who wilfully];

(2) Wilfully files a statement or report containing false information or material omission of any fact[, who engages];

(3) Engages in activities prohibited by section 97-5[.]; or [who fails]

(4) Fails to provide information required by section 97-2 or 97-3;

shall be guilty of a petty misdemeanor.

(b) After holding a contested case hearing under section 97- , the state ethics commission may assess an administrative fine that shall not exceed \$500."

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 10. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

#### Notes

1. Comma should be underscored.

2. Edited pursuant to HRS §23G-16.5.

## ACT 221

H.B. NO. 112

A Bill for an Act Relating to the Enforcement of the State Ethics Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-31, Hawaii Revised Statutes, is amended to read as follows:

**"§84-31 Duties of commission; complaint, hearing, determination. (a)**

The ethics commission shall have the following powers and duties:

(1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the gifts disclosure statements required by section 84-11.5 and the statements and reports required by sections 97-2 and 97-3 and shall establish orderly procedures for implementing the requirements of those provisions.

(2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the code of ethics. It shall also render advisory opinions to persons subject to chapter 97. If no advisory opinion is rendered within



thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the code of ethics. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, or person subject to chapter 97 who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion.

- (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings.
- (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.
- (5) It may, from time to time make, amend, and repeal such rules, not inconsistent with this chapter as in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules, when adopted as provided in chapter 91, shall have the force and effect of law.
- (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within [three] six years of an alleged violation of this chapter by a legislator or employee or former legislator or employee. A proceeding shall be deemed commenced by the filing of a charge with the commission or by the signing of a charge by three or more members of the commission. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter.
- (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment.
- (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
- (9) It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists.

(b) Charges concerning the violation of this chapter shall be in writing, signed by the person making the charge under oath, except that any charge initiated by the commission shall be signed by three or more members of the commission. The commission shall notify in writing every person against whom a charge is received and afford the person an opportunity to explain the conduct alleged to be in violation of the chapter. The commission may investigate, after compliance with this section, such charges and render an informal advisory opinion to the alleged

violator. The commission shall investigate all charges on a confidential basis, having available all the powers herein provided, and proceedings at this stage shall not be public. If the informal advisory opinion indicates a probable violation, the person charged shall request a formal opinion or within a reasonable time comply with the informal advisory opinion. If the person charged fails to comply with such informal advisory opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this chapter might have occurred, a copy of the charge and a further statement of the alleged violation shall be personally served upon the alleged violator. Service shall be made by personal service upon the alleged violator wherever found or by registered or certified mail with request for a return receipt and marked deliver to addressee only. If after due diligence service cannot be effected successfully in accordance with the above, service may be made by publication if so ordered by the circuit court of the circuit wherein the alleged violator last resided. The state ethics commission shall submit to the circuit court for its consideration in issuing its order to allow service by publication an affidavit setting forth facts based upon the personal knowledge of the affiant concerning the methods, means, and attempts made to locate and effect service by personal service or by registered or certified mail in accordance with the above. Service by publication when ordered by the court shall be made by publication once a week for four successive weeks of a notice in a newspaper of general circulation in the circuit of the alleged violator's last known state address. The alleged violator shall have twenty days after service thereof to respond in writing to the charge and statement.

[(c) Any commission member or individual, including the individual making the charge, who divulges information concerning the charge prior to the issuance of the complaint by the commission, or if the investigation discloses that the complaint should not be issued by the commission, at any time divulges any information concerning the original charge, or divulges the contents of the disclosures except as permitted by this chapter, shall be guilty of a felony which shall be punishable by a fine of not more than \$5,000 or imprisonment of not more than five years, or both, or in the case of a legislator, when acting in the legislator's legislative capacity, be subject to discipline pursuant to Article III, section 12, of the Hawaii Constitution as the case may be.

(d) [(c) If after twenty days following [personal] service[,] of the charge and further statement of alleged violation in accordance with this section, a majority of the members of the commission conclude that there is [reason] probable cause to believe that a violation of this chapter or of the code of ethics adopted by the constitutional convention has been committed, then the commission shall set a time and place for a hearing, giving notice to the complainant and the alleged violator. Upon the commission's issuance of a notice of hearing, the charge and further statement of alleged violation and the alleged violator's written response thereto shall become public records. The hearing shall be held within ninety days of the commission's issuance of a notice of hearing. If the hearing is not held within that ninety-day period, the charge and further statement of alleged violation shall be dismissed; provided that any delay that is at the request of, or caused by, the alleged violator shall not be counted against the ninety-day period. All parties shall have an opportunity (1) to be heard, (2) to subpoena witnesses and require the production of any books or papers relative to the proceedings, (3) to be represented by counsel and (4) to have the right of cross-examination. All hearings shall be in accordance with chapter 91. All witnesses shall testify under oath and the hearings shall be [closed to the public unless the party complained against requests an open hearing.] open to the public. The commission shall not be bound by the strict rules of evidence but the commission's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded. Copies of

transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the State's general fund.

[(e)] (d) A decision of the commission pertaining to the conduct of any legislator, delegate to the constitutional convention, or employee or person formerly holding such office or employment, or person subject to chapter 97 shall be in writing and signed by three or more of the members of the commission. A decision of the commission rendered after a hearing together with findings and the record of the proceeding shall be a public record.

(e) A person who files a frivolous charge with the commission against any person covered by this chapter shall be civilly liable to the person charged for all costs incurred in defending the charge, including but not limited to costs and attorneys' fees. In any case where the commission decides not to issue a complaint in response to a charge, the commission shall make a finding as to whether or not the charge was frivolous. The person charged may initiate an action in the circuit court for recovery of fees and costs incurred in commission proceedings within one year after the commission renders a decision. The commission's decision shall be binding upon the court for purposes of a finding pursuant to section 607-14.5.

(f) The commission shall cause to be published yearly summaries of decisions, advisory opinions, and informal advisory opinions. The commission shall make sufficient deletions in the summaries to prevent disclosing the identity of persons involved in the decisions or opinions[,] where the identity of such persons is not otherwise a matter of public record under this chapter."

SECTION 2. Section 84-32, Hawaii Revised Statutes, is amended to read as follows:

**"§84-32 Procedure.** (a) With respect to legislators and employees removable only by impeachment: when the ethics commission after due hearings pursuant to section [84-31(d)] 84-31(c) determines that there is sufficient cause to file a complaint against a legislator or an employee removable only by impeachment, it shall issue a complaint and refer the matter to the appropriate body of the legislature. The complaint must contain a statement of the facts alleged to constitute the violation. [If within thirty days after the referral, the legislature has not disposed of the complaint, the commission shall make the charges public.] The complaint shall be a matter of public record. The legislature shall take appropriate disciplinary action unless it determines that disciplinary action is not warranted and, within thirty days of the referral of the complaint, shall notify the commission of the action taken. Days during which the legislature is not in session shall not be included in determining the thirty-day period. Any disciplinary action taken by the legislature, or the fact that no disciplinary action is taken, shall be a matter of public record.

(b) With respect to employees other than legislators and employees removable only by impeachment: when the commission determines after due hearing [determines] pursuant to section [84-31(d)] 84-31(c) that there is sufficient cause to file a complaint against an employee other than a legislator, or an employee removable only by impeachment, it shall [refer the decision] issue a complaint and refer the matter to the governor who shall take appropriate disciplinary action [within sixty days and] unless the governor determines that disciplinary action is not warranted. The governor shall notify the commission of the disciplinary action taken[.

If it is found that a violation has occurred, the governor or the ethics commission by a vote of four members may make the findings and the record of the proceeding public, taking into account the seriousness of the violation.

This subsection shall not prevent the commission from reporting decisions in the yearly summaries required by section 84-31(f).] or the fact that no disciplinary action was taken, within sixty days of the referral of the complaint. The complaint and any disciplinary action taken, or the fact that no disciplinary action is taken, shall be a matter of public record.

(c) With respect to former employees[: the commission may with the consent of four commissioners issue a public statement of its findings and conclusions, and] and former legislators, when the commission determines after due hearing pursuant to section 84-31(c) that there is sufficient cause to file a complaint against a former employee or former legislator, it shall issue a complaint and refer the matter to the attorney general who may exercise whatever legal or equitable remedies which may be available to the State. The complaint shall be a matter of public record.

(d) With respect to delegates to the constitutional convention removable only by impeachment: when the ethics commission after due hearing pursuant to section [84-31(d)] 84-31(c) determines that there is sufficient cause to file a complaint against a delegate to the constitutional convention, it shall issue a complaint and refer the matter to the appropriate body of the constitutional convention. The complaint shall be a matter of public record. The appropriate body of the constitutional convention shall take appropriate disciplinary action unless it determines that disciplinary action is not warranted and, within thirty days of the referral of the complaint, shall notify the commission of the action taken. Days during which the constitutional convention is not in session shall not be included in determining the thirty-day period. Any disciplinary action taken by the constitutional convention, or the fact that no disciplinary action is taken, shall be a matter of public record.

(e) With respect to persons subject to chapter 97: when the ethics commission after due hearing pursuant to section [84-31(d)] 84-31(c) determines that a violation of chapter 97 has occurred, it shall refer the matter to the office of the attorney general or the prosecuting attorney for the city and county of Honolulu each of which shall have concurrent jurisdiction. The fact of [such] the referral for prosecution shall be made public by the ethics commission.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 222

H.B. NO. 123

A Bill for an Act Relating to Alternative Methods of Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii remains twenty years behind many states in providing safe, viable, and comprehensive bikeways for residents and tourists. Many mainland cities and states have enacted laws that fund bikeways and bikeway development that provide alternate transportation and improve the urban and rural landscape.

Bikeways offer numerous benefits: they encourage the use of alternate transportation for commuters and other legitimate users of highways which alleviates traffic congestion; they promote physical fitness thereby reducing health care costs; they support Hawaii as the "Health State"; they aid in providing green

corridors throughout urban areas; they promote neighborhood scale development which supports small businesses and communities; and they provide infrastructure for international, national, state and local events, and sport-tourism which economically benefits Hawaii.

The legislature would like to express strong support for the establishment of bikeways, which is long overdue. The department of transportation services of the city and county of Honolulu and the state department of transportation have completed bikeway plans for Hawaii, and it is time to provide the necessary funding to make bikeways a reality. The legislature believes that Hawaii offers ideal climatic and topographic conditions to develop comprehensive bikeways, and that many citizens who refrain from bicycling because of inadequate facilities would utilize more adequate bikeways.

The legislature further finds that by allocating funds for bikeway development, Hawaii will enhance its eligibility to receive federal moneys through the Intermodal Surface Transportation Efficiency Act (ISTEA) to rapidly create comprehensive bikeways and bicycle facilities. By modeling laws after Oregon's model bike laws and acknowledging other states' acceptance of the American Association of State Highway and Transportation Officials (AASHTO) criteria for bikeways and associated facilities while applying them when they are not in conflict with criteria currently in place at the local or state levels, Hawaii will take the necessary steps toward creating viable alternative transportation.

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§264- Use of highway fund for bikeways.** (a) Out of the state highway fund reasonable amounts shall be expended as necessary by the state for the establishment of bikeways. Bikeways shall be established, whenever practicable, whenever a highway, road, or street is being constructed, reconstructed, relocated, or rehabilitated.

(b) Bikeways are not required to be established under subsection (a):

- (1) Where the establishment of the lanes, paths, routes, and ways would be contrary to public safety; or
- (2) If the cost of establishing the lanes, paths, routes, and ways would be excessively disproportionate to the need or probable use; or
- (3) Where low population density, other available ways, or other factors indicate an absence of any need for the lanes, paths, routes, and ways.

(c) The department of transportation, when requested, shall provide technical assistance and advice to counties in carrying out the purpose of this section. The department of transportation shall recommend construction standards for bikeways. The department of transportation, in the manner prescribed for marking highways under section 264-25, shall provide a uniform system of marking and signing such lanes, paths, routes, and ways which shall apply to lanes, paths, routes, and ways under the jurisdiction of the department of transportation and the counties. Notwithstanding any provision to the contrary, the department of transportation and the counties may restrict the use of the lanes, paths, routes, and ways to pedestrians and non-motorized vehicles.

(d) As used in this section, the term “bikeway” shall have the same meaning as in section 291C-1.

(e) The department of transportation shall report annually to the legislature before the convening of each regular session as to bikeway expenditures and current projects.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 223

H.B. NO. 298

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the provision of legal services to chartered student organizations constitutes a public purpose. The purpose of this Act is to authorize chartered student organizations of the University of Hawaii to expend public funds to employ legal services for those organizations.

SECTION 2. Section 304-8.6, Hawaii Revised Statutes, is amended to read as follows:

**“§304-8.6 University of Hawaii student activities revolving fund. (a)** There is established the “University of Hawaii student activities revolving fund” into which shall be deposited all funds assessed as compulsory student activity fees and collected by the University of Hawaii on behalf of chartered student organizations and student activity programs of the several campuses of the University of Hawaii system. All revenues received by chartered student organizations and student activity programs from student activities and programs, except those revenues to which other special funds have prior claim, shall also be deposited into the revolving fund.

(b) Separate accounts shall be maintained for each chartered student organization and student activity program. Funds from the accounts may be withdrawn and expended by each respective chartered student organization or student activity program for any purpose which it deems necessary and proper to carry out and achieve its educational responsibilities, programs, and related activities; provided that approval for such expenditure is first obtained from the board of regents or its designated representative, except that approval is not required for expenditures for the purchase of flowers, leis, food, refreshments, and prizes if the purchases do not exceed an amount determined by policies adopted by the board of regents, provided that the amount shall not exceed the funds available to any chartered student organization or student activity program annually.

(c) Other laws to the contrary notwithstanding, any chartered student organization may be permitted to withdraw and expend funds from the special accounts to employ or retain by contract or otherwise, an attorney or attorneys only for the purpose of defending such organization in any litigation. Any chartered student organization specifically organized to provide student publications or broadcast communications may also be permitted to withdraw and expend funds from the special accounts to employ or retain by contract or otherwise, an attorney for the purpose of rendering legal advice to avoid lawsuits. The expenditures in this subsection shall be approved by, and in accordance with policies adopted by, the board of regents. No funds expended under this subsection may be used to defend chartered student organizations for any wrongful or malicious act, or to pay for any claim for loss or damage arising from the activities of the chartered student organizations, including costs, expenses, and liabilities incurred in connection with

any claim or proceeding brought against a chartered student organization for damages resulting from the act or omission of a chartered student organization or any member thereof. All moneys received for the University of Hawaii student activities revolving fund shall be deposited in a depository maintained by the university in accordance with policies which shall be adopted by the board of regents."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 224

H.B. NO. 357

A Bill for an Act Relating to Adult Probation Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 806-73, Hawaii Revised Statutes, is amended to read as follows:

**"§806-73 Duties and powers of probation officers; adult probation records.** (a) A probation officer shall investigate any case referred to the probation officer for investigation by the court in which the probation officer is serving and report thereon to the court. The probation officer shall instruct each defendant placed on probation under the probation officer's supervision of the terms and conditions of the defendant's probation. The probation officer shall keep informed concerning the conduct and condition of the defendant and report thereon to the court, and shall use all suitable methods to aid the defendant and bring about an improvement in the defendant's conduct and condition. The probation officer shall keep these records and perform other duties as the court may direct.

(b) All records of the Hawaii state adult probation divisions shall be confidential and shall not be deemed to be public records. As used in this section, the term "records" includes but is not limited to all records made by any adult probation officer in the course of performing the probation officer's official duties; provided that the records, or the content of the records, shall be divulged only as follows:

- (1) A copy of any adult probation division case record or of a portion of it, or the case record itself, upon request, may be provided to an adult probation officer of a Hawaii state adult probation division, a family court officer who is preparing a report for the courts, or a state or federal criminal justice agency that:
  - (A) Is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii; or
  - (B) Is responsible for the preparation of a report for a court;
- (2) The contents of any adult probation division case record [relevant for the purpose of serving a summons or bench warrant in a civil or criminal proceeding or a deportation proceeding, may be released only to a state or federal law enforcement agency;] relating to the residence address, work address, home telephone number, or work telephone number of a probationer shall be provided only to a law enforcement officer as defined in section 710-1000(13) to locate the probationer for the purpose of serving a summons or bench warrant in a civil, criminal,

or deportation hearing, or for the purpose of a criminal investigation;  
and

- (3) A copy of a presentence report or investigative report shall be provided only to:
- (A) The persons or entities named in section 706-604;
  - (B) The Hawaii paroling authority;
  - (C) Any psychiatrist, psychologist, or other treatment practitioner who is treating the defendant pursuant to a court order or parole order for that treatment;
  - (D) The intake service centers;
  - (E) In accordance with applicable law, persons or entities doing research; and
  - (F) Any Hawaii state adult probation officer or adult probation officer of another state or federal jurisdiction who:
    - (i) Is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii; or
    - (ii) Is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii.

(c) Every probation officer, within the scope of the probation officer's duties, shall have the powers of a police officer."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved June 29, 1995.)

## ACT 225

H.B. NO. 471

A Bill for an Act Relating to Telecommunications.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that:

- (1) It is the policy of the State to protect and advance the public interest by having appropriate and efficient telecommunications services available to all persons of the State at fair, just, reasonable, and non-discriminatory rates;
- (2) It is in the public interest to encourage the further development of the State's telecommunications services and capabilities as a means of:
  - (A) Enhancing the quality of life;
  - (B) Ensuring a high standard of public health and safety;
  - (C) Improving the quality of educational services delivered to all communities;
  - (D) Allowing citizens to participate more fully in their community and government; and
  - (E) Promoting economic development and participation in the local, state, national, and global economies;
- (3) Telecommunications development is particularly crucial to the continued economic development of the islands of Hawaii, Maui, Kauai, Molokai, and Lanai, and the rural areas of Oahu, as telecommunica-



- tions can serve to neutralize geographic barriers, while preserving the diverse and unique qualities of these communities;
- (4) Telecommunications and related information technologies can be used to enhance the competitive advantages of Hawaii's businesses through improved operational efficiencies, and expanded access to market opportunities;
  - (5) Advancement in the State's telecommunications capabilities and services will improve the public welfare by helping to speed the delivery of new services such as distance learning, remote medical sensing, and the distribution of medical information;
  - (6) The development and maintenance of telecommunications capabilities and services must be accomplished in an environment that ensures consumer protection, and provides incentives for private sector participation, while maximizing the benefits of effective competition under appropriate regulatory oversight;
  - (7) It is in the public interest that all consumers share in the benefits of effective competition in telecommunications, that include encouraging infrastructure development, lower prices, universal availability, and increased variety and improved quality of telecommunications services;
  - (8) Effective competition, as defined by the public utilities commission, not merely the conditions for competition or even the existence of competitors, is the threshold for allowing pricing flexibility and the relaxed regulation of the incumbent local exchange telecommunications carrier. Appropriate consumer safeguards for those services that are not effectively competitive include cost-based regulation of the local exchange telecommunications carrier. It is in the public interest to continue the authority of the public utilities commission over telecommunications matters, although the role of regulation will change as services become effectively competitive;
  - (9) The public utilities commission must ensure that effective competition proceeds under rules that are fair to all telecommunications carriers and that will protect consumers, provided that all telecommunications carriers provide their services on a nondiscriminatory basis;
  - (10) Universal service must be maintained where it exists today and extended to households where it does not exist. Assuring that every household has access at an affordable rate to essential telecommunications services must remain a fundamental precept in considering any expansion of the universal service concept. It is in the public interest to preserve and promote affordable, universal, and high-quality basic telecommunications services as those services are determined by the public utilities commission;
  - (11) All telecommunications carriers shall make their networks available for interconnection by others;
  - (12) It is not in the public interest that a provider cross-subsidize competitive services from noncompetitive services or that a provider shift common costs onto captive consumers and basic services to reduce prices in competitive markets;
  - (13) Changes in technology are outpacing changes in regulations at the state level and a national policy is evolving to advance competition in the provision of telecommunications services that may preempt state authority;
  - (14) A consistent state policy is needed in telecommunications matters. Unreasonable barriers to enter into the telecommunications services

market must be removed, and state regulatory policies must be revised and supplemented to:

- (A) Ensure that all consumers have adequate services available at just, reasonable, and nondiscriminatory rates;
- (B) Advance the development of effective competition in telecommunications services;
- (C) Advance universal service; and
- (D) Adhere to national standards for interconnection as they are established to allow participation in the national information infrastructure;

and

- (15) The public utilities commission has opened infrastructure Docket No. 7702 to investigate the communications infrastructure of the State and to identify the infrastructure necessary to support the deployment and use of technologies and services in Hawaii.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding ten new sections to be appropriately designated and to read as follows:

**“§269-A Obligations of telecommunications carriers.** In accordance with conditions and guidelines established by the commission to facilitate the introduction of competition into the State’s telecommunications marketplace, each telecommunications carrier, upon bona fide request, shall provide services or information services, on reasonable terms and conditions, to an entity seeking to provide intrastate telecommunications, including:

- (1) Interconnection to the telecommunications carrier’s telecommunications facilities at any technically feasible and economically reasonable point within the telecommunications carrier’s network so that the networks are fully interoperable;
- (2) The current interstate tariff used as the access rate until the commission can adopt a new intrastate local service interconnection tariff pursuant to section 269-D;
- (3) Nondiscriminatory and equal access to any telecommunications carrier’s telecommunications facilities, functions, and the information necessary to the transmission and routing of any telecommunications service and the interoperability of both carriers’ networks;
- (4) Nondiscriminatory access among all telecommunications carriers, where technically feasible and economically reasonable, and where safety or the provision of existing electrical service is not at risk, to the poles, ducts, conduits, and rights-of-way owned or controlled by the telecommunications carrier, or the commission shall authorize access to electric utilities’ poles as provided by the joint pole agreement, commission tariffs, rules, orders, or Federal Communications Commission rules and regulations;
- (5) Nondiscriminatory access to the network functions of the telecommunications carrier’s telecommunications network, that shall be offered on an unbundled, competitively neutral, and cost-based basis;
- (6) Telecommunications services and network functions without unreasonable restrictions on the resale or sharing of those services and functions; and
- (7) Nondiscriminatory access of customers to the telecommunications carrier of their choice without the need to dial additional digits or access codes, where technically feasible. The commission shall determine the equitable distribution of costs among the authorized telecommunica-

tions carriers that will use such access and shall establish rules to ensure such access.

Where possible, telecommunications carriers shall enter into negotiations to agree on the provision of services or information services without requiring intervention by the commission; provided that any such agreement shall be subject to review by the commission to ensure compliance with the requirements of this section.

**§269-B Universal service.** The commission shall preserve and advance universal service by:

- (1) Maintaining affordable, just, and reasonable rates for basic residential service;
- (2) Assisting individuals or entities who cannot afford the cost of or otherwise require assistance in obtaining or maintaining their basic service or equipment as determined by the commission; and
- (3) Ensuring that consumers are given the information necessary to make informed choices among the alternative telecommunications providers and services.

**§269-C Telecommunications number portability.** The commission shall ensure that telecommunications number portability within an exchange is available, upon request, as soon as technically feasible and economically reasonable. An impartial entity shall administer telecommunications numbering and make the numbers available on an equitable basis.

**§269-D Compensation agreements.** The commission shall ensure that telecommunications carriers are compensated on a fair basis for termination of telecommunications services on each other's networks, taking into account, among other things, reasonable and necessary costs to each telecommunications carrier of providing the services in question. Telecommunications carriers may negotiate compensation arrangements, that may include "bill and keep," mutual and equal compensation, or any other reasonable division of revenues pending tariff access rates to be set by the commission. Upon failure of the negotiations, the commission shall determine the proper methodology and amount of compensation.

**§269-E Regulatory flexibility for effectively competitive services.** The commission may allow telecommunications carriers to have pricing flexibility for services that the commission finds are effectively competitive; provided that the rates for:

- (1) Basic telephone service and for services that are not effectively competitive are cost-based and remain just, reasonable, and non-discriminatory; and
- (2) Universal service is preserved and advanced.

**§269-F Cross-subsidies.** (a) The commission shall ensure that noncompetitive services shall not cross-subsidize competitive services. Cross-subsidization shall be deemed to have occurred:

- (1) If any competitive service is priced below the total service long-run incremental cost of providing the service as determined by the commission in subsection (b); or
- (2) If competitive services, taken as a whole, fail to cover their direct and allocated joint and common costs as determined by the commission.

(b) The commission shall determine the methodology and frequency with which providers calculate total service long-run incremental cost and fully allocated

joint and common costs. The total service long-run incremental cost of a service shall include an imputation of an amount equal to the contribution that the telecommunications carrier receives from noncompetitive inputs used by alternative providers in providing the same or equivalent service.

**§269-G Access to advanced services.** The commission shall ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities that provide subscribers with sufficient network capacity to access information services that provide a combination of voice, data, image, and video, and that are available at just, reasonable, and nondiscriminatory rates that are based on reasonably identifiable costs of providing the services.

**§269-H Universal service program; establishment; purpose; principles.** There is established the universal service program. The purpose of this program is to:

- (1) Maintain affordable, just, and reasonable rates for basic residential telecommunications service, as defined by the commission;
- (2) Assist customers located in the areas of the State that have high costs of essential telecommunications service, low-income customers, and customers with disabilities, in obtaining and maintaining access to a basic set of essential telecommunications services as determined by the commission. The commission may expand or otherwise modify relevant programs, such as the lifeline program under section 269-16.5;
- (3) Ensure that consumers in all communities are provided with access, at reasonably comparable rates, to all telecommunications services which are used by a majority of consumers located in metropolitan areas of the State. The commission shall provide for a reasonable transition period to support the statewide deployment of these advanced telecommunications services, including, but not limited to, the use of strategic community access points in public facilities such as education, library, and health care facilities;
- (4) Ensure that consumers are given the information necessary to make informed choices among the alternative telecommunications carriers and services; and
- (5) Promote affordable access throughout the State to enhanced government information and services, including education, health care, public safety, and other government services.

The commission shall administer the universal service program, including the establishment of criteria by which the purposes of the program are met.

**§269-I Universal service program; contributions.** (a) There is established the universal service fund to be administered by the commission. The commission shall adopt rules regarding the distribution of moneys from the fund including reimbursements to carriers for providing reduced rates to low-income, elderly, residents of underserved or rural areas, or other subscribers, as authorized by the commission.

(b) The commission may allow distribution of funds directly to customers based upon a need criteria established by the commission.

(c) A telecommunications carrier or other person contributing to the universal service program may establish a surcharge which is clearly identified and explained on customers' bills to collect from customers contributions required under this section.

(d) Telecommunications carriers may compete to provide services to underserved areas using funds from the universal service program. For the purposes of this section, "underserved areas" means those areas in the State that lack or have very limited access to high capacity, advanced telecommunications networks and information services, including access to cable television.

(e) The commission shall require all telecommunications carriers to contribute to the universal service program. The commission may require a person other than a telecommunications carrier to contribute to the universal service program if, after notice and opportunity for hearing, the commission determines that the person is offering a commercial service in the State that directly benefits from the telecommunications infrastructure, and that directly competes with a telecommunications service provided in the State for which a contribution is required under this subsection.

(f) The commission shall designate the method by which the contributions under subsection (e) shall be calculated and collected. The commission shall consider basing contributions solely on the gross operating revenues from the retail provision of intrastate telecommunications services offered by the telecommunications carriers subject to the contribution.

**§269-J Carriers of last resort.** (a) The commission may define and designate local exchange service areas where the commission has determined that providing universal service funds to a single provider will be the most appropriate way to ensure service for these areas.

(b) The commission shall determine the level of service that is appropriate for each designated local exchange service area and shall invite telecommunications providers to bid for a level of service that is appropriate. The successful bidder shall be designated the carrier of last resort for the designated local exchange service area for a period of time and upon conditions set by the commission. In determining the successful bidder, the commission shall take into consideration the level of service to be provided, the investment commitment, and the length of the agreement, in addition to the other qualifications of the bidder.

(c) The universal service fund shall also provide service drops and basic service at discounted rates to public institutions, as stated in section 269-H.

(d) The commission shall adopt rules pursuant to chapter 91 to carry out the provisions of this section."

SECTION 3. Section 269-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

"Designated local exchange service area" means an area as determined by the commission to be best served by designating a carrier of last resort pursuant to section 269-J.

"Carrier of last resort" means a telecommunications carrier designated by the commission to provide universal service in a given local exchange service area determined to be lacking in effective competition.

"Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signalling, or control devices.

"Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information

of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined in section 440G-3."

2. By amending the definition of "public utility" to read:

"“Public utility” includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

- (1) Shall include any person insofar as that person owns or operates a private sewer company or sewer facility;
- (2) Shall include telecommunications carrier or telecommunications common carrier;
- [(2)] (3) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;
- [(3)] (4) Shall not include persons owning or operating taxicabs, as defined in this section;
- [(4)] (5) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;
- [(5)] (6) Shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;
- [(6)] (7) Shall not include:
  - (A) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
  - (B) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;
- [(7)] (8) Shall not include any person who:
  - (A) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and
  - (B) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- [(8)] (9) Shall not include a telecommunications provider only to the extent determined by the commission pursuant to section 269-16.9; and
- [(9)] (10) Shall not include any person who controls, operates, or manages [plan] plans or facilities developed pursuant to chapter 167 for convey-

ing, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose.

In the event the application of this chapter is ordered by the commission in any case provided in paragraphs [(4),] (5), (6), [(8), and] (9), and (10), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in sections 269-16.9 and 269-20."

SECTION 4. Section 269-16.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) If the commission determines that the relay service can be provided in a cost-effective manner by a service provider, the commission may require every telephone public utility, including telecommunications carriers, to contract with that provider for the provision of the relay service under the terms established by the commission."

SECTION 5. Section 269-16.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The commission shall require every telephone public utility, including telecommunications carriers, providing local telephone service to file a schedule of rates and charges and every provider of relay service to maintain a separate accounting for the costs of providing for relay services for the deaf, hearing-impaired, and speech-impaired."

SECTION 6. Section 269-16.9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any provision of this chapter to the contrary, the commission [may], upon its own motion or upon the application of any person, and upon notice and hearing, may exempt a telecommunications provider or a telecommunications service from any or all of the provisions of this chapter, except the provisions of section 269-A, upon a determination that the exemption is in the public interest. In determining whether an exemption is in the public interest, the commission shall consider whether the exemption promotes state policies in telecommunications, the development, maintenance, and operation of effective and economically efficient telecommunications services, and the furnishing of telecommunications services at just and reasonable rates and in a fair manner in view of the needs of the various customer segments of the telecommunications industry. Among the specific factors the commission may consider are:

- (1) The responsiveness of the exemption to changes in the structure and technology of the State's telecommunications industry;
- (2) The benefits accruing to the customers and users of the exempt telecommunications provider or service;
- (3) The impact of the exemption on the quality, efficiency, and availability of telecommunications services;
- (4) The impact of the exemption on the maintenance of fair, just, and reasonable rates for telecommunications services;
- (5) The likelihood of prejudice or disadvantage to ratepayers of basic local exchange service resulting from the exemption;

- (6) The effect of the exemption on the preservation and promotion of affordable, universal, basic telecommunications services as those services are determined by the commission;
- (7) The resulting subsidization, if any, of the exempt telecommunications service or provider by nonexempt services;
- (8) The impact of the exemption on the availability of diversity in the supply of telecommunications services throughout the State;
- (9) The improvements in the regulatory system to be gained from the exemption, including the reduction in regulatory delays and costs;
- (10) The impact of the exemption on promoting innovations in telecommunications services;
- (11) The opportunity provided by the exemption for telecommunications providers to respond to competition; and
- (12) The potential for the exercise of substantial market power by the exempt provider or by a provider of the exempt telecommunications service."

SECTION 7. The public utilities commission shall submit a report to the legislature no later than September 30, 1995, detailing the progress of the introduction of competition into the State's telecommunications marketplace. In addition, the public utilities commission and the department of commerce and consumer affairs shall submit separate reports to the legislature not later than September 30, 1995, detailing the progress made in response to S.C.R. No. 191, S.D. 1, H.D. 1 (1994), "REQUESTING THE PUBLIC UTILITIES COMMISSION AND THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' CABLE TELEVISION DIVISION TO EXAMINE THE CURRENT REGULATORY PROCESSES", which requested a review and assessment of the current communications and broadcast media regulation processes with a view toward determining the requirements for consolidated regulation of all communications technologies in the State. The legislature may require subsequent reports from the public utilities commission and department of commerce and consumer affairs as it deems necessary.

SECTION 8. In codifying the sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections' designation in this Act.

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 11. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

#### Note

1. Edited pursuant to HRS §23G-16.5.



## ACT 226

H.B. NO. 715

A Bill for an Act Relating to Driving Under the Influence of Intoxicating Liquor or Drugs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§291- Habitually driving under the influence of intoxicating liquor or drugs.** (a) A person commits the offense of habitually driving under the influence of intoxicating liquor or drugs if, during a ten-year period the person has been convicted three or more times for a driving under the influence offense; and

- (1) The person operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor, meaning that the person is under the influence of intoxicating liquor in an amount sufficient to impair the person’s normal mental faculties or ability to care for oneself and guard against casualty;
- (2) The person operates or assumes actual physical control of the operation of any vehicle with .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or .08 or more grams of alcohol per two hundred ten liters of breath; or
- (3) A person operates or assumes actual physical control of the operation of any vehicle while under the influence of any drug which impairs such person’s ability to operate the vehicle in a careful and prudent manner. The term “drug” as used in this section shall mean any controlled substance as defined and enumerated on schedules I through IV of chapter 329.

(b) For the purposes of this section a driving under the influence offense means a violation of section 291-4, 291-7, or 707-702.5, or violation of laws in another jurisdiction which requires proof of each element of the offenses punishable under either section 291-4, 291-7, or 707-702.5 if committed in Hawaii.

(c) Habitually driving under the influence of intoxicating liquor or drugs is a class C felony.”

SECTION 2. Section 286-251, Hawaii Revised Statutes, is amended by amending the definition of “blood alcohol concentration” to read:

““[Blood alcohol] Alcohol concentration” means either grams of alcohol per one hundred milliliters or cubic centimeters of blood or grams of alcohol per two hundred ten liters of breath.”

SECTION 3. Section 286-256, Hawaii Revised Statutes, is amended to read as follows:

**“§286-256 Immediate restoration of license.** If a test conducted in accordance with part VII and section 321-161 and the rules adopted thereunder shows that the arrestee’s [blood] alcohol concentration was less than [.10,] .08, the director or the arresting agency shall immediately return the arrestee’s license along with a certified statement that administrative revocation proceedings have been terminated with prejudice.”

SECTION 4. Section 286-257, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever a person is arrested for a violation of section 291-4 and submits to a test [which] that establishes that the arrestee’s [blood] alcohol concentration was [.10] .08 or more, the following shall be immediately forwarded to the director:

- (1) A copy of the arrest report and the sworn statement of the arresting officer stating facts [which] that establish that:
  - (A) There was reasonable suspicion to stop the motor vehicle or the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6;
  - (B) There was probable cause to believe that the arrestee had been driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;
  - (C) The arrestee was informed of the sanctions of this part, that criminal charges may be filed, and the consequences of refusing to be tested for alcohol concentration [of alcohol in the blood]; and
  - (D) The arrestee agreed to be tested;
- (2) The sworn statement of the person responsible for maintenance of the testing equipment stating facts [which] that establish that pursuant to section 321-161 and rules adopted thereunder:
  - (A) The equipment used to conduct the test was approved for use as an alcohol testing device in this State;
  - (B) The person had been trained and at the time the test was conducted was certified and capable of maintaining the testing equipment; and
  - (C) The testing equipment used had been properly maintained and was in good working condition when the test was conducted;
- (3) The sworn statement of the person who conducted the test stating facts [which] that establish that pursuant to section 321-161 and rules adopted thereunder:
  - (A) The person was trained and at the time the test was conducted was certified and capable of operating the testing equipment;
  - (B) The person followed the procedures established for conducting the test;
  - (C) The equipment used to conduct the test functioned in accordance with operating procedures and indicated that the person’s [blood] alcohol concentration was at, or above, the prohibited level; and
  - (D) The person whose breath or blood was tested was the person arrested;
- (4) A copy of the notice of administrative revocation issued to the arrestee;
- (5) Any driver’s license taken into possession by the arresting officer; and
- (6) A listing of any prior alcohol enforcement contacts involving the arrestee.”

SECTION 5. Section 286-258, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The director shall administratively revoke the arrestee’s driver’s license if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle or the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6;
- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having [a blood] an alcohol concentration of [0.10] .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part."

SECTION 6. Section 286-259, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The director shall affirm the administrative revocation only if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle or the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6;
- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having [a blood] an alcohol concentration of [.10] .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part."

SECTION 7. Section 286-261, Hawaii Revised Statutes, is amended to read as follows:

**"§286-261 Effective date and period of administrative revocation; criteria.** (a) Unless an administrative revocation is reversed or the temporary permit is extended by the director, administrative revocation shall become effective on the day specified in the notice. Except as provided in section 286-264, no license shall be restored under any circumstances and no conditional permit shall be issued during the administrative revocation period.

(b) The periods of administrative revocation [which] that may be imposed under this part are as follows:

- (1) Three months, if the arrestee's driving record shows no prior alcohol enforcement contacts during the five years preceding the date of arrest;
- (2) One year if the arrestee's driving record shows one prior alcohol enforcement contact during the five years preceding the date of arrest;
- (3) Two years if the arrestee's driving record shows two prior alcohol enforcement contacts during the seven years preceding the date of arrest;
- (4) For life if the arrestee's driving record shows three or more prior alcohol enforcement contacts during the ten years preceding the date of arrest; or

- (5) For arrestees under the age of eighteen years, the period remaining until the arrestee's eighteenth birthday, or for the appropriate revocation period provided in paragraphs (1) to (4) or in subsection (c), whichever is longer.

(c) The license of an arrestee who refuses to be tested after being informed of the sanctions of this part shall be revoked under subsection (b)(1), (2), [or] and (3) for a period of one year, two years, and four years, respectively.

(d) Whenever a license is administratively revoked under this part, the offender shall be referred to a certified substance abuse counselor for an assessment of the offender's alcohol abuse or dependence and the need for treatment. The counselor shall submit a report with recommendations to the director. If the counselor's assessment establishes that the extent of the offender's alcohol abuse or dependence warrants treatment, the director may so order. All costs for assessment and treatment shall be paid by the offender.

[(e) In addition to the provisions of subsections (c) and (d), the director may order the person to install an ignition interlock system as a condition precedent to relicensing pursuant to section 286-265 or to driving under a conditional permit issued pursuant to section 286-264.

(f)] (e) Alcohol enforcement contacts [which] that occurred prior to August 1, 1991, shall be counted in determining the administrative revocation period."

SECTION 8. Section 287-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Whenever a driver's license has been suspended or revoked pursuant to part XIV of chapter 286[,] except as provided in section 291-4(f), or upon a conviction of any offense pursuant to law, or, in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility; provided that this section shall not apply to any conviction of a moving violation or any administrative license suspension pursuant to chapter 291A. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses listed in this section, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, driving while under the influence of drugs, and driving while that person's license has been suspended or revoked; and
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$1,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault."

SECTION 9. Section 291-4, Hawaii Revised Statutes, is amended as follows:

**“§291-4 Driving under the influence of intoxicating liquor.** (a) A person commits the offense of driving under the influence of intoxicating liquor if:

- (1) The person operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor, meaning that the person concerned is under the influence of intoxicating liquor in an amount sufficient to impair the person’s normal mental faculties or ability to care for oneself and guard against casualty; or
- (2) The person operates or assumes actual physical control of the operation of any vehicle with [.10] .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or [.10] .08 or more grams of [a] alcohol per two hundred ten liters of breath.

(b) A person committing the offense of driving under the influence of intoxicating liquor shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For the<sup>1</sup> first offense, or any offense not preceded within a five-year period by a conviction under this section, by:
  - (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court; and
  - (B) Ninety-day prompt suspension of license with absolute prohibition from operating a motor vehicle during suspension of license, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a motor vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in alcoholism treatment programs; and
  - (C) Any one or more of the following:
    - (i) Seventy-two hours of community service work;
    - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
    - (iii) A fine of not less than \$150 but not more than \$1,000.
- (2) For an offense which occurs within five years of a prior conviction under this section[:], by:
  - (A) Prompt suspension of license for a period of one year with the absolute prohibition from operating a motor vehicle during suspension of license;
  - (B) Either one of the following:
    - (i) Not less than [eighty] one hundred hours of community service work; or
    - (ii) Not less than forty-eight consecutive hours but not more than [sixty] fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively; and
  - (C) A fine of not less than \$500 but not more than [\$1,000.] \$1,500.
- (3) For an offense which occurs within five years of two prior convictions under this section, by:
  - (A) A fine of not less than \$500 but not more than [\$1,000;] \$2,500;
  - (B) Revocation of license for a period not less than one year but not more than five years; and
  - (C) Not less than ten days but not more than [one hundred eighty] thirty days imprisonment of which at least forty-eight hours shall be served consecutively.

- (4) Notwithstanding any other law to the contrary, any conviction for driving under the influence of intoxicating liquor, shall be considered a prior conviction.
- (5) No license suspension or revocation shall be imposed pursuant to this subsection if the person's license has previously been administratively revoked pursuant to part XIV of chapter 286 for the same offense; provided that, if the administrative revocation is subsequently reversed, the person's license shall be suspended or revoked as provided in this subsection.

(c) Whenever a court sentences a person pursuant to subsection (b), it shall also require that the offender be referred to a substance abuse counselor who has been certified pursuant to section,<sup>2</sup> 321-193 for an assessment of the offender's alcohol abuse or dependence and the need for appropriate treatment. The counselor shall submit a report with recommendations to the court. The court may require the offender to obtain appropriate treatment if the counselor's assessment establishes the offender's alcohol abuse or dependence.

All cost for assessment or treatment or both shall be borne by the offender.

(d) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to the person an application for a new driver's license for a period to be determined by the court.

(e) Any person sentenced under this section may be ordered to reimburse the county for the cost of any blood tests conducted under section 286-152. The court shall order the person to make restitution in a lump sum, or in a series of prorated installments, to the police department, or other agency incurring the expense of the blood test.

(f) The requirement to provide proof of financial responsibility pursuant to section 287-20 shall not be based upon a revocation under part XIV of chapter 286 unless the person's license had been previously revoked under that part in the five-year period immediately preceding the revocation at issue, nor shall the requirement to provide proof of financial responsibility pursuant to section 287-20 be based upon a sentence imposed under subsection (b)(1).

[(f)] (g) As used in this section the terms "driver," "driver's license," and "examiner of drivers," shall have the same meanings as provided in section 286-2<sup>2</sup> and the term "vehicle" shall have the same meaning as provided in section 291C-1."

SECTION 10. Section 291-5, Hawaii Revised Statutes, is amended to read as follows:

**"§291-5 Evidence of intoxication.** (a) In any criminal prosecution for a violation of section 291-4, [ten-hundredths per cent or more by weight of alcohol in the defendant's blood] .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of the defendant's blood or .08 or more grams of alcohol per two hundred ten liters of the defendant's breath within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation.

(b) In any criminal prosecution for a violation of section 291-4, the amount of alcohol found in the defendant's blood or breath within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence that the

defendant was under the influence of intoxicating liquor at the time of the alleged violation and shall give rise to the following presumptions:

- (1) If there were [five-hundredths per cent or less by weight of alcohol in the defendant's blood,] .05 or less grams of alcohol per one hundred milliliters or cubic centimeters of blood or .05 or less grams of alcohol per two hundred ten liters of defendant's breath, it shall be presumed that the defendant was not under the influence of intoxicating liquor at the time of the alleged violation[.]; and
- (2) If there were in excess of [five-hundredths per cent but less than ten-hundredths per cent by weight of alcohol in the defendant's blood, such] .05 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .05 grams of alcohol per two hundred ten liters of defendant's breath, but less than .08 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .08 grams of alcohol per two hundred ten liters of defendant's breath, that fact may be considered with other competent evidence in determining whether or not the defendant was at the time of the alleged violation under the influence of intoxicating liquor but shall not of itself give rise to any presumption.

(c) Nothing in this section shall be construed as limiting the introduction, in any criminal proceeding for a violation under section 291-4 or in any proceeding under part XIV of chapter 286, of relevant evidence of a person's [blood] alcohol content obtained more than three hours after an alleged violation[.]; provided that the evidence is offered in compliance with the Hawaii rules of evidence."

SECTION 11. Section 286-251, Hawaii Revised Statutes, is amended by deleting the definition "ignition interlock system".

[""Ignition interlock system" means a mechanical device certified by the director of transportation which, when affixed to the ignition system of a motor vehicle, prevents the vehicle from being started without first testing a deep-lung breath sample which indicates that the blood alcohol concentration of the vehicle's operator is less than .10 and which has been approved for use pursuant to section 321-161 and rules adopted thereunder."']

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date; provided that the amendment to section 291-4(f) and 287-20, Hawaii Revised Statutes, shall apply to all cases pending on the effective date of this Act.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 14. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

#### Notes

1. Prior to amendment "a" appeared here. "The" should be underscored.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Graffiti.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 577, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§577- Property damage, parental responsibility.** (a) The parents or legal guardians of a minor child shall be jointly and severally liable for graffiti damage caused by the minor to real or personal property, whether publicly or privately owned. As used in this section, “graffiti” means any unauthorized drawing, inscription, figure, or marking created by paint, ink, chalk, dye, or similar substances.

(b) In addition to any other lawful orders, if a minor is found under chapter 571 to have committed an act constituting graffiti, the court may order the minor, the parents, or the legal guardians of the minor to pay the actual cost of having the damaged property repaired or replaced and may order the minor to perform community service. If the court orders payment for the actual cost of the damage, the court shall give due consideration to the financial resources of the minor, the parents, or the legal guardians of the minor to ensure that they will be able to pay the costs of the damage. If the court determines that the minor, the parents, or the legal guardians of the minor are unable to pay the actual cost of the damage, the court may order payment in an amount for which they are able to pay or in a manner in which they are able to pay, and may order the minor to perform community service work in an amount commensurate with the costs of the damage for which they are unable to pay.

(c) Nothing in this section shall affect the right of any person to maintain a civil action arising out of graffiti damage to property.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the State Ethics Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-21, Hawaii Revised Statutes, is amended to read as follows:

**“§84-21 State ethics commission established; composition.** (a) There [shall be] is established within the office of the [legislative] auditor for administrative purposes only a commission to be known as the state ethics commission. The commission shall consist of five members [to be] appointed by the governor from a panel of ten persons [who shall be] nominated by the judicial council. Each member



of the commission shall be a citizen of the United States and a resident of the State. Members of the commission shall hold no other public office.

(b) The [chairman] chairperson of the commission shall be elected by the majority of the members of the commission. The term of each member of the commission shall be for four years[, provided that of the five members initially appointed two members shall hold office for two years, two members shall hold office for three years and one member shall hold office for four years]. No person shall be appointed consecutively to more than two terms as a member of the commission. [Vacancies] A vacancy on the commission shall be filled for the remainder of [any] the unexpired term in the same manner as the original [appointments] appointment, except that the judicial council shall nominate for gubernatorial appointment two persons for [any] a vacancy.

(c) No member of the commission shall hold office for more than one hundred and twenty days after the expiration of the member's term. If the governor fails to appoint a person to a vacant office within sixty days after receipt of the list of nominees from the judicial council, council shall select a person from its list of nominees to fill the vacant office, notwithstanding subsection (b) and section 26-34 to the contrary.

(d) The governor may remove or suspend any member of the commission[, ] upon the filing of a written finding with the commission, and upon service of a copy of the written finding on the member to be removed or suspended.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 229

H.B. NO. 1425

A Bill for an Act Relating to Recycling.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The goal of the State is to reduce the solid waste stream prior to disposal by twenty-five per cent by January 1, 1995, and by fifty per cent by January 1, 2000. In this plan, recycling and bioconversion should be considered before landfilling and incineration. Our landfills are reaching maximum capacity. Between forty to fifty per cent of waste by weight received by the landfills consists of recyclable material. The creation of new landfills is expensive and time-consuming; recycling can delay the need for them.

Today, we throw away four per cent of our glass, eleven per cent of our metals, five per cent of our plastics, nineteen per cent of our papers and paper boards, and twenty-seven per cent of our compostable yard trimmings. This is an example of lost opportunity costs for recyclable materials. Nationally, eleven million tons of aluminum cans are buried in the landfills; this represents \$6.6 billion in potential lost revenue. This economic impact is significant and needs to be calculated into the costs of building a new landfill.

SECTION 2. Chapter 342G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342G- Recycling coordinator.** There is established a position of assistant to the coordinator of the office of solid waste management to be known as the recycling coordinator. The position shall be appointed by the director without regard to chapters 76 and 77 and shall be compensated at an annual salary level of \$42,538. The recycling coordinator shall be included in any benefit program generally applicable to the officers and employees of the State.”

SECTION 3. Section 342G-13, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342G-13]] Powers and duties of the department.** In the execution of the responsibilities provided under this chapter, the department shall:

- (1) Establish and administer goals and guidelines as provided for in this chapter;
- (2) Adopt rules pursuant to chapter 91 and administer the rules as provided for in this chapter;
- (3) Fulfill the office of solid waste management’s responsibilities pursuant to this chapter until the establishment of the office;
- (4) [Be designated] Serve as the state solid waste management agency for [all purposes stated in] compliance with the federal Resource Conservation and Recovery Act of 1976 (42 United States Code section 6901 et seq.) and any other federal law [heretofore or hereafter enacted affecting] regarding solid waste; and
- (5) Perform other duties as specified in this chapter.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 230**

H.B. NO. 1499

A Bill for an Act Relating to Financial Interests Disclosures.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-17, Hawaii Revised Statutes, is amended to read as follows:

**“§84-17 Requirements of disclosure.** (a) For the purposes of this section, the [term] terms:

    [“disclosure period”] “Disclosure period” refers to the period from January 1 of the preceding calendar year to the time of the filing of the employee’s or legislator’s disclosure of financial interests.

“Substantially the same” refers to no more than ten amendments or changes to the information reported for the preceding disclosure period.

(b) The disclosure of financial interest required by this section shall be filed between January 1 and [April 30] May 31 of each year or within thirty days of one’s election or appointment to a state position enumerated in subsection (c); provided

that candidates for state elective offices or the constitutional convention shall file the required statements no later than twenty days prior to the date of the primary election for state offices or the election of delegates to the constitutional convention.

(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures[.];
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department[.];
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions[.];
- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions[.];
- (5) The hearings officers of every state agency and department[.];
- (6) The president, the vice presidents, assistant vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges[.];
- (7) The superintendent, the deputy superintendent, the assistant superintendents, the district superintendents, the state librarian, and the deputy state librarian of the department of education[.];
- (8) The administrative director and the deputy director of the courts[.];
- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory[.];
- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures[.]; and
- (11) The administrator and assistant administrator of the office of Hawaiian affairs.

(d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

- (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the members of the board of education, the trustees of the office of Hawaiian affairs, and candidates for state elective offices[.];
- (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general[.];
- (3) The administrative director of the State[.];
- (4) The president, the vice presidents, the assistant vice presidents, the chancellors, and the provosts of the University of Hawaii[.];
- (5) The superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education[.];
- (6) The administrative director and the deputy director of the courts[.]; and

(7) The administrator and the assistant administrator of the office of Hawaiian affairs.

(e) The information on the financial disclosure statements shall be confidential, except as provided in subsection (d). The commission shall not release the contents of the disclosures except as may be permitted pursuant to this chapter. Any person who releases any confidential information shall be subject to section 84-31(c).

(f) Candidates for state elective offices, including candidates for election to the constitutional convention, shall only be required to disclose their own financial interests. The disclosures of financial interests of all other persons designated in subsection (c) shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children. All disclosures shall include:

- (1) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year and the nature of the services rendered; provided that information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed[.];
- (2) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business incorporated, regulated, or licensed to carry on business in the State having a value of \$5,000 or more or equal to ten per cent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed[.];
- (3) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation[.];
- (4) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed[.];
- (5) The tax map key number and street address, if any, and the value of any real property in the State in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration[.];
- (6) The names of clients personally represented before state agencies, except in ministerial matters, for a fee or compensation during the disclosure period and the names of the state agencies involved[.]; and
- (7) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.

(g) Where an amount is required to be reported, the person disclosing may indicate whether the amount is at least \$1,000 but less than \$10,000; at least \$10,000 but less than \$25,000; at least \$25,000 but less than \$50,000; at least \$50,000 but less than \$100,000; at least \$100,000 but less than \$150,000; at least \$150,000 but less

than \$250,000; at least \$250,000 but less than \$500,000; at least \$500,000 but less than \$750,000; at least \$750,000 but less than \$1,000,000; or \$1,000,000 or more. An amount of stock may be reported by number of shares.

(h) The state ethics commission shall provide a long form of disclosure on all even-numbered years and a short form of disclosure for subsequent annual filings on all odd-numbered years in those instances where the financial interests of the person disclosing are substantially the same as those reported for the preceding disclosure period.

(i) Failure of a legislator, a delegate to the constitutional convention, or employee to file a disclosure of financial interests as required by this section shall be a violation of this chapter.

(j) The chief election officer, upon receipt of the nomination paper of any person seeking a state elective office, including the office of delegate to the constitutional convention, shall notify the ethics commission of the name of the candidate for state office and the date on which the person filed the nomination paper. The ethics commission, upon the expiration of the time allowed for filing, shall release to the public a list of all candidates who have failed to file financial disclosure statements.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 231

H.B. NO. 1800

A Bill for an Act Relating to Vocational Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 300, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated to read as follows:

### “PART IV. VOCATIONAL STUDENT INTERNSHIP PROGRAM

**§300- Vocational student internship program authorized.** To provide students with opportunities to apply knowledge and skills acquired in the classroom to real life work experiences, the department of education may establish and regulate a program of vocational student internship under conditions determined by the department.

**§300- Coverage for workers’ compensation.** Whenever a student participating in the department’s vocational student internship program undertakes to perform work for a private employer as part of the student’s internship program, the State shall be deemed to be the responsible employer for the purposes of workers’ compensation coverage, which shall be the student’s exclusive remedy to the same extent as provided for in chapter 386 as against the State and the private employer participating in the program.

**§300- Rules.** The board of education may adopt necessary rules, in accordance with chapter 91, to administer and implement this part, including the

adoption of safety guidelines and safety inspection procedures of facilities where students are placed. The department shall inspect each facility annually prior to the placement of students with such facilities.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 232

H.B. NO. 1919

A Bill for an Act Relating to the Insurance Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

**“§431:2- Reimbursement and compensation of examiners; source of funds; disposition of receipts.** (a) All moneys necessary for the compensation and reimbursement of independent contractor examiners and insurance division staff examiners for actual travel expenses, reasonable living expenses, and per diem expenses, at customary rates approved by the commissioner shall be allocated by the legislature through appropriations out of the state general fund. The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(b) Each authorized insurer shall deposit at a time determined by the commissioner the sum of \$200 with the commissioner for deposit into the state general fund.

(c) All moneys, fees, and other payments received by the commissioner under this part shall be deposited to the credit of the state general fund.

(d) This section shall take effect upon the termination of the insurance examiners revolving fund on June 30, 2000.”

SECTION 2. Section 431:19-107, Hawaii Revised Statutes, is amended to read as follows:

**“§431:19-107 Financial statements and other reports.** (a) Each captive insurance company shall submit to the commissioner a statement of financial condition written according to generally accepted accounting principles and audited by an independent certified public accountant on or before the last day of the sixth month following the end of the company’s fiscal year.

(b) In addition, each association captive and risk retention captive shall file with the commissioner an annual statement on or before March 1 each year, [in accordance with statutory accounting practices,] using the National Association of Insurance Commissioners’ annual statement blank plus any additional information required by the commissioner, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31[, in general form and content as approved by the National Association of Insurance Commissioners, verified by oaths of at least two of the insurer’s principal officers. Each risk retention group captive shall file with the National Association of Insurance Commissioners, on or before March 1 of each year, a copy of its annual convention blank along with any additional filings as prescribed by the commissioner for the preceding year]. The annual statement shall be prepared in accordance

with the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' practices and procedures manuals. The reported information shall be verified by oaths of at least two of the insurer's principal officers. Each risk retention group shall also comply with section 431:3-302.

(c) The statements required to be filed in subsections (a) and (b) shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited statements. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

(d) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, summary loss reports and quarterly financial statements.

(e) The commissioner may suspend or revoke the certificate of authority or fine any captive insurer that fails to file any of the documents required by subsections (a) and (b). The fine shall be not more than \$500 per day past the due date."

SECTION 3. Section 431:19-116, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Each pure captive insurance company licensed to do business in this State shall pay to the director of finance through the commissioner a tax of .25 per cent on gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March [15] 1 of each year.

(b) Each association captive insurance company licensed to do business in this State and each risk retention captive insurance company chartered in this State shall pay a tax of one per cent on gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March [15] 1 of each year."

SECTION 4. Act 190, Session Laws of Hawaii 1994, is amended by amending section 10 to read as follows:

"SECTION 10. This Act shall take effect on [July 1,] June 21, 1994 [and shall<sup>1</sup> be repealed]; provided that on June 30, [1996; provided that any statutory or session law material in this Act in existence on June 30, 1994, shall be reenacted on July 1, 1996 in the same form in which it existed on June 30, 1994.] 2000, sections 1 through 5 of this Act and section 431:2-307, Hawaii Revised Statutes, shall be repealed, and sections 431:3-302, 431:5-307, 431:19-107, and 431:19-115, Hawaii Revised Statutes, are reenacted in the form in which they read on June 20, 1994."

SECTION 5. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 5 to be appropriately designated and to read as follows:

**“PART IV. RULES**

**§431:5-A Rules.** The commissioner may adopt rules under chapter 91 implementing this article.”

SECTION 6. Section 431:2-203, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

“(d) If the commissioner has cause to believe that any person is violating or is about to violate any provision of this code or any order of the commissioner, the commissioner may issue a cease and desist order to enforce compliance with this code or any order of the commissioner, or bring an action in any court of competent jurisdiction to enjoin the person from continuing the violation or doing any act in furtherance thereof. The commissioner shall have the discretion to include in a cease and desist order or request in an action brought in any court an assessment of a monetary penalty against any person who violates this code or who has violated an order of the commissioner.”

2. By amending subsection (f) to read:

“(f) The attorney general, corporation counsels, and county prosecuting attorneys, shall on behalf of the commissioner, bring an action in forfeiture against an insurer who violates any order or notice of such order issued by the commissioner. The notice shall be given to the insurer of the commissioner’s intention to proceed under such order against the person who does not comply with the order issued. The order may contain this notice of intention to seek a forfeiture if the order is disobeyed. The forfeiture shall be in an amount that the court considers just, but may not exceed an amount of \$10,000 for each day that the violation continues after the commencement of the action until judgment is rendered. No forfeiture may be imposed under this subsection if at the time the forfeiture action is commenced, the [person] insurer was in compliance with the order, or if the violation of the order occurred during the order suspension period. If, after a judgment is rendered, the [person] insurer still does not comply with the order, the commissioner may commence a new action [or] of forfeiture, and may continue commencing actions in forfeiture until the [person] insurer complies. All proceeds from actions of forfeiture will be paid to the director of finance and paid into the general fund.”

SECTION 7. Section 431:2-209, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

“(c) One year after conclusion of the transactions to which they relate, the commissioner may destroy any correspondence, void or obsolete filings relating to rates, foreign or alien insurers’ annual statements and valuation reports, cards, and expired bonds. Three years after the conclusion of the transactions to which they relate, the commissioner may destroy any claim files, working papers of examinations [of insurers], reports of examination by insurance supervisory officials of other states, void or obsolete filings relating to license applications, records of hearings



and investigations, and any similar records, documents, or memoranda now or hereafter in the commissioner's possession."

2. By amending subsection (f)<sup>2</sup> to read:

"(f)<sup>2</sup> The following records and reports on file with the commissioner shall be confidential and protected from discovery, production, and disclosure for so long as the commissioner deemed prudent:

- (1) Complaints and investigation reports;
- (2) Working papers of examination reports;
- (3) Proprietary information, including trade secrets, commercial information, and business plans, which, if disclosed may result in competitive harm to the person providing said information[.];
- (4) Any documents or information received from the national association of insurance commissioners or insurance departments of other states, territories, and commonwealths that are confidential in other jurisdictions. The commissioner shall be authorized to share information, including otherwise confidential information with the national association of insurance commissioners or insurance departments of other states, territories, and commonwealths so long as the statutes or regulations of the other jurisdictions permit them to maintain the same level of confidentiality as required under Hawaii law."

SECTION 8. Section 431:2-305, Hawaii Revised Statutes, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) No later than sixty days following completion of the examination, the examiner in charge shall file with the insurance division a verified written report of examination under oath. Upon receipt of the verified report, the insurance division shall transmit the report to the insurer or person examined, together with a notice that shall afford the insurer or person examined a reasonable opportunity for not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(c) Within thirty days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order to:

- (1) Adopt the examination report as filed, or with modifications or corrections. If the examination report reveals that the insurer or person is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the insurer or person to take any action the commissioner considers necessary and appropriate to cure the violation;
- (2) Reject the examination report with directions to the examiners to reopen the examination for the purpose of obtaining additional data, documentation, or information, and refile pursuant to subsection (a); or
- (3) Call for an investigatory hearing with no less than twenty days notice to the insurer or person for purposes of obtaining additional documentation, data, information, or testimony.

(d) Orders shall be issued and hearings conducted as follows:

- (1) All orders entered pursuant to subsection (c)(1) shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work-

papers, and any written submissions or rebuttals. Any such order shall be considered a final administrative decision and may be appealed pursuant to chapter 91, and shall be served upon the insurer or person by certified mail, together with a copy of the adopted examination report. Within thirty days of the issuance of the adopted report, the insurer or person shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders[;], except that for examinations of general agents, subagents, solicitors, adjusters, or surplus lines brokers, serving the copy of the adopted report and related orders by certified-return receipt requested mail will satisfy the service requirement and no affidavits shall be required; and

- (2) Any hearing conducted under subsection (c)(3) by the commissioner or authorized representative shall be conducted as a nonadversarial confidential investigatory proceeding as may be necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or raised by the written submission or rebuttal of the insurer[.] or person. Within twenty days of the conclusion of any such hearing, the commissioner shall enter an order pursuant to subsection (c)(1):
  - (A) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the insurer or person limited to the examiner's workpapers that tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation, whether under the control of the division, the insurer, or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or the commissioner's representative shall be under oath and preserved for the record;
  - (B) The hearing shall proceed in accordance with departmental rules adopted under chapter 91; and
  - (C) Nothing contained in this section shall require the insurance division to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency."

SECTION 9. Section 431:2-306, Hawaii Revised Statutes, is amended to read as follows:

**"§431:2-306 Examination expense.** (a) Examinations of:

- (1) Any insurer[.];
- (2) Any person subject to examination under section 431:2-303(2)[.]; or
- (3) Any insurance guaranty fund established pursuant to article 16 [of this code];

shall be at the expense of the insurer, person or guaranty fund examined. Examination expenses shall include fees, mileage, and expenses incurred as to witnesses or any other person, as defined in article 1, subject to an examination by the commissioner.

(b) The insurer, person, or guaranty fund examined and liable therefor shall pay to the commissioner's examiners upon presentation of an itemized statement,

their actual travel expenses, their reasonable living expense allowance, and their per diem compensation at a reasonable rate approved by the commissioner, incurred on account of the examination. All payments collected by the commissioner shall be remitted to the general fund of the State, or to the insurance examiner's revolving fund if independent contractor examiners were employed for the examination. The commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

(c) The commissioner may assess all examination costs of any person subject to examination under section 431:2-303(1) and article 16 when there is a premium trust fund shortage due to substantial noncompliance with section 431:9-230. The commissioner, subject to chapter 91, shall adopt rules to carry out the purposes of this subsection. The rules shall include criteria for the levying of examination assessment costs and specific criteria for appealing assessment costs levied by the commissioner. This subsection shall be repealed on June 30, 1997."

SECTION 10. Section 431:2-307, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commissioner may appoint staff examiners, not subject to chapters 76 and 77, and contract with independent contractor examiners, who shall examine the affairs, transactions, accounts, records, documents, and assets of each authorized insurer[.], general agent, subagent, solicitor, adjuster, and agency. The commissioner may also appoint administrative support personnel, not subject to chapters 76 and 77, who shall assist and support the examiners. The commissioner may pay the salaries of the staff examiners and administrative support personnel from the insurance examiners revolving fund.”

SECTION 11. Section 431:3-301, Hawaii Revised Statutes, is -amended by amending subsection (a) to read as follows:

“(a) Annually on or before March 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, the following documents [are required to] shall be filed with the commissioner:

(1) By each insurer:

- (A) A true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31, shall be filed using the National Association of Insurance Commissioners' annual statement blank plus any additional information required by the commissioner. The annual statement shall be prepared in accordance with the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' accounting practices and procedures manuals. The reported information shall be verified by oaths of at least two of the insurer's principal officers, or the attorney-in-fact in the case of a reciprocal insurer, or the United States manager in the case of an alien insurer. The statement of an alien insurer shall relate only to its transactions and affairs in the United States;
- (B) The tax statement provided for by section 431:7-201; and
- (C) In the event of a change in any of the other information which section 431:3-212 requires an insurer to file with the commissioner at the time of its application for a certificate of authority, the current information in the form stated in section 431:3-212;

- (2) By each insurer, the certificate of valuation provided for by section 431:5-307 and documentation of the liabilities provided for by section 431:5-203(2) and (3) The certificate of valuation and documentation of liabilities shall be accompanied by an actuarial opinion by a qualified actuary or specialist;
- (3) By each foreign or alien insurer, a certificate from the proper public official of its state or country of domicile showing that it is duly authorized to transact the classes of insurance that it is transacting; and
- (4) By each alien insurer, a certificate from the proper public official as to any deposit made or held as compliance with this code."

SECTION 12. Section 431:3-302, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [Foreign] In respect to quarterly filings, foreign insurers that are domiciled in a state which has a law substantially similar to subsection (a) shall be deemed in compliance with this section[.] and are not required to file such statements with this State. However, all other filings are required to be filed in accordance with this section."

SECTION 13. Section 431:7-201, Hawaii Revised Statutes, is amended to read as follows:

**"§431:7-201 Annual tax statement.** Each authorized insurer shall file with the commissioner annually, on or before [March 16] March 1 in each year a statement signed by some duly authorized person on its behalf, setting forth the total business transacted, and the amount of gross premiums received by the insurer during the year ending on the preceding December 31, from all risks or property resident, situated, or located within this State, together with such other information as may be required by the commissioner in order to determine the taxability of premiums. The term gross premiums as used in this part shall not include consideration paid for annuities."

SECTION 14. Section 431:7-202, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The tax shall be due and payable on [March 15 succeeding] or before March 1 coinciding with the filing of the statement provided for in section 431:7-201. Any insurer failing or refusing to render the statement and to pay the required taxes above stated shall be liable to a penalty of \$25 for each day of delinquency; the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should any be imposed, are fully paid."

SECTION 15. Section 431:9-230, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) The licensee [shall], upon receipt of the funds, shall either:
  - (1) Remit the premiums (less commissions) and return premiums received or held by the licensee to the insurers or the persons entitled to such funds; or
  - (2) Maintain the funds at all times in a federally insured account with a bank, savings and loan association, or financial services loan company

situated in Hawaii, separate from the licensee's own funds or funds held by the licensee in any other capacity, in an amount at least equal to the premiums (net of commissions) and return premiums received by such licensee and unpaid to the insurers or persons entitled to such funds. Return premiums shall be returned within thirty days, unless directed otherwise in writing by the person entitled to the funds.

The licensee shall not be required to maintain a separate bank account or other account for the funds of each insurer or person entitled to such funds, if and so long as the funds held for the insurer or person entitled to such funds are reasonably ascertainable from the books of account and records of the licensee. Only such additional funds as may be reasonably necessary to pay bank, savings and loan association, or financial services loan company charges may be commingled with the premium funds. In the event the bank, savings and loan association, or financial services loan company account is an interest earning account, such licensee may not retain the interest earned on such funds to the licensee's own use or benefit without the prior written consent of the insurers or person<sup>1</sup> entitled to such funds. A premium trustee account shall be designated on the records of the bank, savings and loan association, or financial services loan company as a "trustee account established pursuant to section 431:9-230, Hawaii Revised Statutes", or words of similar import."

SECTION 16. Section 431:9-239, Hawaii Revised Statutes, is amended to read as follows:

**"§431:9-239 Reinstatement or relicensing.** The commissioner shall not reinstate the license of or relicense any licensee or former licensee as to whom a license has been suspended, revoked, or extension refused, until:

- (1) Any cause for the suspension, revocation, or refusal of such license is no longer existing[, or];
- (2) Any fine levied upon the licensee pursuant to section 431:9-238 and section 431:9-240 has been fully paid[.]; and
- (3) The commissioner is satisfied that such causes for the suspension, revocation, or refusal of such license will not reoccur in the future."

SECTION 17. Section 431:14-119, Hawaii Revised Statutes, is amended to read as follows:

**"§431:14-119 Publication of approved workers' compensation rate filings.** The insurer or rating organization submitting the workers' compensation rate filing or [lost] loss cost filing shall publish a notice of the filing within [fifteen] seven days from the date of filing and notice of an approved filing in a newspaper of general circulation in this State in a form approved by the commissioner."

SECTION 18. Section 431:16-115, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each member insurer shall annually recoup the assessments paid in the preceding years by the insurer under this part. The recoupment shall be recovered by means of a surcharge on premiums charged for policies for all kinds of insurance, except life, title, surety, disability, credit mortgage guaranty, and ocean marine. Prior to recoupment, each member insurer shall submit its plan for recoupment to the commissioner[.] for approval. The surcharge shall be at a uniform percentage rate reasonably calculated to recoup the assessment paid by the member insurer. Any excess recovery by a member insurer shall be credited pro rata to that member

insurer's policyholders' premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess will be used to pay the amount of the subsequent assessment. If a member insurer fails to recoup the entire amount of its assessment in the first year under the procedure provided in this section, it may repeat the procedure in succeeding years until the full assessment is recouped."

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 20. This Act shall take effect upon its approval; provided that on June 30, 2000, the director of finance shall transfer to the credit of the state general fund all unexpended or unencumbered balances remaining in the insurance examiners revolving fund; and provided that sections 5 through 18 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

Notes

1. So in original.
2. Subsection amended in 1993 by Act 205.
3. Edited pursuant to HRS §23G-16.5.

ACT 233

H.B. NO. 1962

A Bill for an Act Relating to Gifts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to authorize the department of defense to accept, use, and manage gifts received to enhance the purposes of the Hawaii national guard youth challenge program.

SECTION 2. Chapter 121, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§121- Youth challenge program.** (a) Notwithstanding any other law to the contrary, the department may receive, expend, use, manage, and invest money, services, or property, real, personal, or mixed, that may be given, bequeathed, devised, or in any other manner provided, from sources other than the legislature or the federal government, for any purpose authorized under the Hawaii national guard youth challenge program, as described in that certain grant program under the National Guard Bureau, and not inconsistent with any terms or conditions imposed by the donor, this section, or chapter 84.

(b) A gift of money shall be deposited by the director of finance in a separate account in the state treasury and expended in accordance with law and any terms and conditions that may pertain to the gift. Unless otherwise specified as a term or condition, the department may convert a gift of property into money. Income derived from property or the conversion of property may be used for the purposes described in this section and to pay for the storage, handling, management, repair, maintenance, and distribution of other properties held by the department for these purposes.

(c) All expenditures made pursuant to this section shall be subject to the approval of the adjutant general.

(d) In the case of services and property, real, personal, or mixed received, the department shall thereafter be responsible for their management, repair, and maintenance.

(e) The source making the gift shall not be liable upon any claim for injury arising from the donated property; provided that this provision shall not affect the responsibility or liability of manufacturers of defective products nor shall it affect the responsibilities of negligent persons who cause dangerous conditions that result in injury.

(f) The department shall maintain records of each gift, the essential facts of gift management, details relating to expenditures of all money made pursuant to this section, and the current disposition, use, and condition of each gift held by the department. This information shall be compiled and reported annually to the legislature and the governor, and shall be made available to the general public free of charge."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 234**

H.B. NO. 2133

A Bill for an Act Relating to Workers' Compensation Reform.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. Section 386, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**"§386- Negotiation for benefit coverage.** (a) Notwithstanding any provision of law to the contrary, any employer may determine the benefits and coverage of a policy required under this chapter through collective bargaining with an appropriate bargaining unit; provided that the bargained agreement shall be reviewed by the director to ensure that the agreement does not provide benefits and coverage less than those provided in this chapter. The director shall approve the agreement within ninety days after submittal upon a finding that the agreement provides the benefits and coverage required. This section shall not apply to collective bargaining contracts negotiated pursuant to chapter 89. The director may adopt rules pursuant to chapter 91 to implement this section.

(b) This section shall apply only to collective bargaining agreements negotiated subsequent to the effective date of this Act."

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§386- Publication of fees by prepaid health care plan contractors.** (a) A prepaid health care plan contractor as defined in section 393-3 shall provide the director upon request with a schedule of all the maximum allowable medical fees.

(b) Pursuant to section 386-21(c), the director shall review and, to the extent possible, shall use the fee obtained under subsection (a) as the primary guideline in establishing prevalent charges for medical care, services, and supplies in adopting the fee schedule for workers' compensation claims."

SECTION 3. Chapter 396, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§396- Certification of safety and health professionals.** (a) Only individuals receiving certification from the department as safety and health professionals shall be qualified to certify that an employer:

- (1) Has an effective safety and health program; and
- (2) Qualifies for a reduction in workers' compensation insurance premiums under section 431:14-103(b).

(b) Certification as a safety and health professional shall be:

- (1) Issued to an individual only; and
- (2) Renewable.

(c) Certificates issued under this section may be revoked or suspended by the director on any grounds specified in rules adopted under this chapter."

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 9 to be appropriately designated and to read as follows:

**"§431:9- Workers' compensation claims adjusters; limited license.** The commissioner may issue a limited license to an adjuster who only adjusts workers' compensation claims; provided that the adjuster:

- (1) Is domiciled in the State of Hawaii, or in a state that permits residents of the State of Hawaii to act as adjusters in that other state;
- (2) Has had experience, special education, or training in handling loss claims under workers' compensation insurance contracts of sufficiently reasonable duration and to enable an individual to fulfill the responsibilities of an adjuster;
- (3) Has a passing grade on the workers' compensation examination pursuant to section 431:9-206; and
- (4) Pays the applicable fees.

An adjuster with a limited license issued under this subsection may extend the license biennially upon successfully passing a reexamination on workers' compensation."

SECTION 5. Chapter 431, Hawaii Revised Statutes, is amended by adding two new sections to article 14 to be appropriately designated and to read as follows:

**"§431:14- Disclosure of workers' compensation premium information.** (a) All policies issued to employers for workers' compensation insurance shall disclose clearly to employers as separate figures the portion of the premium charged for:

- (1) Medical care, services, and supplies;
- (2) Wage loss benefits including temporary total, temporary partial, and permanent total disability benefits and their related benefits;
- (3) Indemnity benefits for permanent partial disability; and
- (4) Death benefits.

In addition, a disclosure statement shall indicate to the employer the portion of the premium attributable to loss control and administrative costs, attorney's fees



of the insurer, the cost of employer requested medical examinations, and private investigation costs.

(b) When a policy is issued to employers for workers' compensation insurance, it shall be accompanied by a statement disclosing the percentages of premiums expended during the previous year by the insurer for claims paid in the categories specified in subsection (a), including loss control and administrative costs, attorney's fees of the insurer, the cost of employer requested medical examinations, and private investigation costs.

(c) The information provided to employers by insurers pursuant to this section shall be provided on an annual basis to the director of labor and industrial relations and to the commissioner.

(d) Any insurer found in violation of this section shall pay a fine of \$5,000 per violation to the insured, plus attorney's fees and costs to the insured for enforcing this section.

**§431:14- Contracting classification premium program.** With respect to each classification of risk in the construction industry, the rating organization shall file with the commissioner a contracting classification premium program, which is a method of computing premiums, that does not impose a higher premium solely because of an employer's higher rate of wages."

SECTION 6. Section 386-3, Hawaii Revised Statutes, is amended to read as follows:

**"§386-3 Injuries covered.** If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as hereinafter provided.

Accident arising out of and in the course of the employment includes the wilful act of a third person directed against an employee because of the employee's employment.

No compensation shall be allowed for an injury incurred by an employee by the employee's wilful intention to injure oneself or another [or by the employee's intoxication.] by actively engaging in any unprovoked non-work related physical altercation other than in self defense, or by the employee's intoxication."

SECTION 7. Section 386-21, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

**"(c)** The liability of the employer for medical care, [medical] services, and [medical] supplies shall be limited to the charges computed as set forth in [the] this section. The director shall make determinations of [such] the charges and [promulgate] adopt fee schedules based upon [such] those determinations [as are set forth in this section. For the calendar year 1974 and for each succeeding calendar year thereafter the charges shall be limited to the amounts determined in applicable regulations of the department which became effective on August 13, 1971, and amendments thereto, adjusted to reflect increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor which have occurred in the last twelve months ending June 30 of the year preceding.

The adjustments in charges provided for in this section shall be computed annually and rounded to the next higher multiple of 10 cents in each case.

Notwithstanding the foregoing, the director shall review and if necessary revise the applicable regulations every three years, the review and revision to be conducted in accordance with section 91-3. The first review and revision shall be completed no later than December 1, 1974, to be effective January 1, 1975, and subsequent reviews or revisions shall be made at each three year interval thereafter. In making such reviews and revisions and adopting fee schedules pursuant thereto, the director shall establish reasonable fees for medical care, medical services, and medical supplies and may take into consideration in making such determination the charges made in the State for similar treatment of injuries which are not compensable under this chapter]. [The] As of the effective date of this Act, and for each succeeding fiscal year thereafter, the charges shall not exceed one hundred ten per cent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services, except as provided in this subsection. The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.

If the director determines that an allowance under the Medicare program is not reasonable, or if a medical treatment, accommodation, product, or service existing as of the effective date of this Act is not covered under the Medicare program, the director [may] shall, at any time, [in the foregoing manner,] establish an additional fee schedule or schedules not exceeding the prevalent charge for fees for services actually received by providers of health care services to cover charges for [medical care, medical services, and medical supplies not previously regulated pursuant to this section.

The liability of the employer may exceed the amount set forth in such fee schedule or schedules only under conditions prescribed by the director.] that treatment, accommodation, product, or service. If no prevalent charge for a fee for service has been established for a given service or procedure, the director shall adopt a reasonable rate that shall be the same for all providers of health care services to be paid for that service or procedure.

The director shall update the schedules required by this section annually. The updates shall be based upon:

- (1) Future charges or additions prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services; or
- (2) A statistically valid survey by the director of prevalent charges for fees for services actually received by providers of health care services or based upon the information provided to the director by the appropriate state agency having access to prevalent charges for medical fee information.

When a dispute exists between an insurer or self-insured employer and a medical service provider regarding the amount of a fee for medical services, the director may resolve the dispute in a summary manner as the director may prescribe; provided that a provider shall not charge more than the provider's private patient charge for the service rendered."

SECTION 8. Section 386-26, Hawaii Revised Statutes, is amended to read as follows:

**"[§386-26]] Guidelines on frequency of treatment and reasonable utilization of health care and services. (a)** The director shall issue guidelines for the frequency of treatment and for reasonable utilization of medical care and services by health care providers [which] that are considered necessary and appropriate under this chapter.

The frequency and extent of treatment shall not exceed the nature of the injury and the process a recovery requires; provided that no authorization shall be required for the initial five treatments. After the initial five treatments, in accordance with guidelines established by the director under this chapter, the director may authorize no more than ten additional treatments. For injuries requiring more than fifteen treatments, the director may authorize additional treatments upon a finding that such treatments are medically necessary and appropriate.

The guidelines shall be adopted pursuant to chapter 91 and shall not interfere with the injured employee's rights to exercise free choice of physicians under section 386-21.

In addition, the director shall [promulgate] adopt updated medical fee schedules referred to in section 386-21 and where deemed appropriate shall establish separate fee schedules for services of health care providers as defined in section 386-1 to become effective no later than June 30, 1986, in accordance with chapter 91."

SECTION 9. Section 386-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Permanent partial disability. Where a work injury causes permanent partial disability, the employer shall pay the injured worker compensation in an amount determined by multiplying the effective maximum weekly benefit rate prescribed in section 386-31 by the number of weeks specified for the disability as follow:

Thumb. For the loss of thumb, seventy-five weeks;

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks;

Second finger. For the loss of a second finger, commonly called the middle finger, thirty weeks;

Third finger. For the loss of a third finger, commonly called the ring finger, twenty-five weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks;

Phalanx of thumb or finger. Loss of the first phalanx of the thumb shall be equal to the loss of three-fourths of the thumb, and compensation shall be three-fourths of the amount above specified for the loss of the thumb. The loss of the first phalanx of any finger shall be equal to the loss of one-half of the finger, and compensation shall be one-half of the amount above specified for loss of the finger. The loss of more than one phalanx of the thumb or any finger shall be considered as loss of the entire thumb or finger;

Great toe. For the loss of a great toe, thirty-eight weeks;

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks;

Phalanx of toe. Loss of the first phalanx of any toe shall be equal to the loss of one-half of the toe, and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of a hand, two hundred forty-four weeks;

Arm. For the loss of an arm, three hundred twelve weeks;

Foot. For the loss of a foot, two hundred five weeks;

Leg. For the loss of a leg, two hundred eighty-eight weeks;

Eye. For the loss of an eye by enucleation, one hundred sixty weeks. For the loss of vision in an eye, one hundred forty weeks. Loss of binocular vision or of eighty per cent of the vision of an eye shall be considered loss of vision of the eye;

Ear. For the permanent and complete loss of hearing in both ears, two hundred weeks. For the permanent and complete loss of hearing in one ear, fifty-two weeks. For the loss of both ears, eighty weeks. For the loss of one ear, forty weeks;

Loss of use. Permanent loss of the use of a hand, arm, foot, leg, thumb, finger, toe, or phalanx shall be equal to and compensated as the loss of a hand, arm, foot, leg, thumb, finger, toe, or phalanx;

Partial loss or loss of use of member named in schedule. Where a work injury causes permanent partial disability resulting from partial loss of use of a member named in this schedule, and where the disability is not otherwise compensated in this schedule, compensation shall be paid for a period that stands in the same proportion to the period specified for the total loss or loss of use of the member as the partial loss or loss of use of that member stands to the total loss or loss of use thereof;

More than one finger or toe of same hand or foot. In cases of permanent partial disability resulting from simultaneous injury to the thumb and one or more fingers of one hand, or to two or more fingers of one hand, or to the great toe and one or more toes other than the great toe of one foot, or to two or more toes other than the great toe of one foot, the disability may be rated as a partial loss or loss of use of the hand or the foot and the period of benefit payments shall be measured accordingly. In no case shall the compensation for loss or loss of use of more than one finger or toe of the same hand or foot exceed the amount provided in this schedule for the loss of a hand or foot;

Amputation. Amputation between the elbow and the wrist shall be rated as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be rated as the equivalent of the loss of a foot. Amputation at or above the elbow shall be rated as the loss of an arm. Amputation at or above the knee shall be rated as the loss of a leg;

Disfigurement. In cases of personal injury resulting in disfigurement the director may award compensation not to exceed [\$15,000] \$30,000 as the director deems proper and equitable in view of the disfigurement. Disfigurement shall be separate from other permanent partial disabilities and shall include scarring and other disfiguring consequences caused by medical, surgical, and hospital treatment of the employee;

Other cases. In all other cases of permanent partial disability resulting from the loss or loss of use of a part of the body or from the impairment of any physical function, weekly benefits shall be paid at the rate and subject to the limitations specified in this subsection for a period that bears the same relation to a period named in the schedule as the disability sustained bears to a comparable disability named in the schedule. In cases in which the permanent partial disability must be rated as a percentage of the total loss or impairment of a physical or mental function of the whole person, the maximum compensation shall be computed on the basis of the corresponding percentage of the product of three hundred twelve times the effective maximum weekly benefit rate prescribed in section 386-31.

Payment of compensation for permanent partial disability. Compensation for permanent partial disability shall be paid in weekly installments at the rate of sixty-six and two-thirds per cent of the worker's average weekly wage, subject to the limitations on weekly benefit rates prescribed in section 386-31.

Unconditional nature and time of commencement of payment. Compensation for permanent partial disability shall be paid regardless of the earnings of the disabled employee subsequent to the injury. Payments shall not commence until after termination of any temporary total disability that may be caused by the injury."

SECTION 10. Section 386-33, Hawaii Revised Statutes, is amended to read as follows:

**“§386-33 Subsequent injuries [which] that would increase disability. (a)**

Where prior to any injury an employee suffers from a previous permanent partial disability already existing prior to the injury for which compensation is claimed, and the disability resulting from the injury combines with the previous disability, whether the previous permanent partial disability was incurred during past or present periods of employment, to result in a greater permanent partial disability or in permanent total disability or in death then weekly benefits shall be paid as follows:

- (1) In cases where the disability resulting from the injury combines with the previous disability to result in greater permanent partial disability the employer shall pay the employee compensation for the employee's actual permanent partial disability but for not more than one hundred four weeks; the balance if any of compensation payable to the employee for the employee's actual permanent partial disability shall thereafter be paid out of the special compensation fund; provided that in successive injury cases where the claimant's entire permanent partial disability is due to more than one compensable injury, the amount of the award for the subsequent injury shall be offset by the amount awarded for the prior compensable injury;
- (2) In cases where the disability resulting from the injury combines with the previous disability to result in permanent total disability, the employer shall pay the employee for one hundred four weeks and thereafter compensation for permanent total disability shall be paid out of the special compensation fund; and
- (3) In cases where the disability resulting from the injury combines with the previous disability to result in death the employer shall pay weekly benefits in accordance with sections 386-41 and 386-43 but for not more than one hundred four weeks; the balance of compensation payable under those sections shall thereafter be paid out of the special compensation fund.

(b) [Subsection (a) to the contrary notwithstanding,] Notwithstanding subsection (a), in the case of permanent total disability or death, where the director or the appellate board determines that the previous permanent partial disability amounted to less than that necessary to support an award of thirty-two weeks of compensation for permanent partial disability there shall be no liability on the special compensation fund, and [in any such case] the employer shall pay the employee or the employee's dependents full compensation for the employee's [actual permanent partial or] permanent total disability or death.

(c) Subsections (a) and (b) shall apply in all cases where the work injury occurs on or after May 15, 1982, and combines with a previous disability to result in a greater permanent partial disability or in permanent total disability or in death. Effective July 1, 1995, subsection (a)(1), as amended, shall apply in all cases in which the work injury occurs on or after July 1, 1995, and combines with a previous disability from a compensable injury to result in a greater permanent partial disability.”

SECTION 11. Section 386-51, Hawaii Revised Statutes, is amended to read as follows:

**“§386-51 Computation of average weekly wages.** Average weekly wages shall be computed in [such] a manner that the resulting amount represents most fairly, in the light of the employee's employment pattern and the duration of the employee's disability, the injured employee's average weekly wages from all covered employment at the time of the personal injury. In no event, however, shall an employee's average weekly wages be computed to be less than the employee's

hourly rate of pay multiplied by thirty-five[.]; provided that where the employee holds part-time employment of fewer than thirty-five hours per week, the employee's average weekly wages shall be the hourly rate at the place of employment where the injury occurred multiplied by the average hours worked in the fifty-two weeks (or portions thereof) preceding the week in which the injury occurred, for the calculation of temporary partial disability and temporary total disability benefits only. Other benefits including permanent partial disability, permanent total disability, and death shall be calculated as if the employee had been a full-time employee.

- (1) Where appropriate and feasible [such], computation shall be made on the basis of the injured employee's earnings from covered employment during the twelve months preceding the employee's personal injury; but if during that period, the employee, because of sickness or similar personal circumstances was unable to engage in employment for one or more weeks then the number of [such] those weeks shall not be included in the computation of the average weekly wage.
- (2) Where an employee at the time of the injury was employed at higher wages than during any other period of the preceding twelve months then the employee's average weekly wages shall be computed exclusively on the basis of [such] the higher wages.
- (3) Where, by reason of the shortness of the time during which the employee has been in the employment or the casual nature or terms of the employment, it is not feasible to compute the average weekly wages on the basis of the injured employee's own earnings from [such] that employment, regard may be had to the average weekly wages which during the twelve months preceding the injury was being earned by an employee in comparable employment.
- (4) [In no case shall] Except as otherwise provided, the total average weekly wages of any employee shall be computed at a lower amount than the average weekly wages earned at the time of the injury by an employee in comparable employment engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred.
- (5) If an employee, while under twenty-five years of age, sustains a work injury causing permanent disability or death, the employee's average weekly wages shall be computed on the basis of the wages which the employee would have earned in the employee's employment had the employee been twenty-five years of age.
- (6) The director [of labor and industrial relations] may issue rules for the determination of the average weekly wages in particular classes of cases, consistent with the principles laid down in the first paragraph of this section."

SECTION 12. Section 386-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No compromise in regard to a claim for compensation pending before the director shall be valid unless it is approved by decision of the director as conforming to this chapter and made a part of [such] the decision[; provided that any compromise in which the claimant waives or otherwise prejudices the claimant's right to reopen the claimant's case or to future medical benefits shall not be valid unless also approved in writing by the appellate board]."

SECTION 13. Section 386-79, Hawaii Revised Statutes, is amended to read as follows:

**“§386-79 Medical examination by employer’s physician.** After an injury and during the period of disability, the employee, whenever ordered by the director of labor and industrial relations, shall submit oneself to examination, at reasonable times and places, by a duly qualified physician or surgeon designated and paid by the employer. The employee shall have the right to have a physician or surgeon designated and paid by the employee present at the examination, which right, however, shall not be construed to deny to the employer’s physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability.

If an employee refuses to submit oneself to, or in any way obstructs, such examination the employee’s right to claim compensation for the work injury shall be suspended until the refusal or obstruction ceases and no compensation shall be payable for the period during which the refusal or obstruction continues.

In cases where the employer is dissatisfied with the progress of the case or where major and elective surgery, or either, is contemplated, the employer may appoint a physician or surgeon of the employer’s choice who shall examine the injured employee and make a report to the employer. If the employer remains dissatisfied this report may be forwarded to the director.

Employer requested examinations ordered by the director under this section shall not exceed more than one per case unless good and valid reasons exist with regard to the medical progress of the claimant’s treatment. The cost of conducting the medical examination shall be limited to the complex consultation charges governed by the medical fee schedule established pursuant to section 386-21(c).”

SECTION 14. Section 386-92, Hawaii Revised Statutes, is amended to read as follows:

**“§386-92 Default in payments of compensation, penalty.** If any compensation payable under the terms of a final decision or judgment is not paid by a self-insured employer or an insurance carrier within thirty-one days after it becomes due, as provided by [such] the final decision or judgment, or if any temporary total disability benefits are not paid by [such] the employer or carrier within ten days, exclusive of Saturdays, Sundays, and holidays, after [being] the employer or carrier has been notified of the disability, and where the right to [such] benefits are not controverted in the employer’s initial report of industrial injury or where temporary total disability benefits are terminated in violation of section 386-31, there shall be added to the unpaid compensation an amount equal to [ten] twenty per cent thereof payable at the same time as, but in addition to, the compensation, unless the nonpayment is excused by the director after a showing by the employer or insurance carrier that the payment of the compensation could not be made on the date prescribed therefor owing to the conditions over which the employer or carrier had no control.”

SECTION 15. Section 386-96, Hawaii Revised Statutes, is amended to read as follows:

**“§386-96 Reports of physicians, surgeons, and hospitals.** (a) Any physician, surgeon, or hospital that has given any treatment or rendered any service to an injured employee shall make a report of the injury and treatment on forms prescribed by and to be obtained from the department as follows:

- (1) Within seven days after the date of first attendance or service rendered, an initial report shall be made to the department and to the employer of the injured employee in the manner prescribed by the department[.];

- (2) Interim reports to the same parties and in the same manner as prescribed in paragraph (1) shall be made at appropriate intervals [of twenty-one days or less during continuing treatment.] to verify the claimant's continuing treatment, periods of temporary disability, the extent of permanent disability, and other information determined necessary by the director; and

- (3) [Final] A final report to the same parties and in the same manner as prescribed in paragraph (1) shall be made within seven days after termination of treatment.

(b) No claim under this chapter for medical [or surgical] treatment, [or] surgical treatment, or hospital services and supplies, shall be valid and enforceable unless the reports are made as provided in this section, except that the director may excuse the failure to make the report within the prescribed period or a nonsubmission of [said] the report when the director finds it in the best interest of justice to do so. If the director does not excuse the submission of: [(a) an]

- (1) An initial or interim report within the time prescribed in subsection (a) (1) and (2) [above, the delinquent physician shall be fined in an amount not to exceed \$250; (b) a]; or

(2) A final report [which] that is thirty days late or a nonsubmission, the delinquent physician shall be fined [in an amount not to exceed] not more than \$250.

(c) The director shall furnish to the injured employee a copy of the final report of the attending physician or surgeon or, if more than one physician or surgeon should treat or examine the employee, a copy of the final report of each physician or surgeon.

(d) Within fifteen days after being requested to do so by the injured employee or the employee's duly authorized representative, the employer shall furnish the employee or the employee's duly authorized representative with copies of all medical reports relating to the employee's injury [which] that are in the possession of the employer. The copies shall be furnished at the expense of the employer. The employer shall allow the employee or the employee's duly authorized representative to inspect and copy transcripts of depositions of medical witnesses, relating to the employee's injury, in the possession of the employer. Any employer who fails to furnish medical reports or to allow inspection and copying of transcripts of depositions of medical witnesses, as required by this paragraph shall be fined in an amount not to exceed \$1,000.

(e) Deposit of the records required by [the first paragraph] subsection (a)(1) of [this section] in the United States mail, addressed to the director and to the employer, within the time limit specified, shall be deemed in compliance with the requirements of this section."

SECTION 16. Section 386-98, Hawaii Revised Statutes, is amended to read as follows:

**"§386-98 [Penalties for fraud.** No person shall willfully make a false statement or representation for the purpose of directly obtaining any compensation or payment or for the purpose of avoiding on behalf of employer or carrier any compensation or payment under this chapter.] **Fraud violations and penalties.** (a) A fraudulent insurance act, under this chapter, shall include acts or omissions committed by any person who knowingly and fraudulently intends to obtain benefits, deny benefits, obtain benefits compensation for services provided, or provides legal assistance or counsel to obtain benefits or recovery through fraud or deceit by doing the following:



- (1) Presenting, or causing to be presented, any false information on an application;
- (2) Presenting, or causing to be presented, any false or fraudulent claim for the payment of a loss;
- (3) Presenting multiple claims for the same loss or injury, including presenting multiple claims to more than one insurer except when these multiple claims are appropriate and each insurer is notified immediately in writing of all other claims and insurers;
- (4) Making, or causing to be made, any false or fraudulent claim for payment or denial of a health care benefit;
- (5) Submitting a claim for a health care benefit that was not used by, or on behalf of, the claimant;
- (6) Presenting multiple claims for payment of the same health care benefit;
- (7) Presenting for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time;
- (8) Assisting, abetting, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section;
- (9) Misrepresenting or concealing a material fact;
- (10) Fabricating, altering, concealing, making a false entry in, or destroying a document;
- (11) Making, or causing to be made, any false or fraudulent statements with regard to entitlements or benefits, with the intent to discourage an injured employee from claiming benefits or pursuing a workers' compensation claim; or
- (12) Making, or causing to be made, any false or fraudulent statements or claims by, or on behalf of, a client with regard to obtaining legal recovery or benefits.

(b) No employer shall wilfully make a false statement or representation to avoid the impact of past adverse claims experience through change of ownership, control, management, or operation to directly obtain any workers' compensation insurance policy.

(c) It shall be inappropriate for any discussion on benefits, recovery, or settlement to include the threat or implication of criminal prosecution. Any threat or implication shall be immediately referred in writing to:

- (1) The state bar if attorneys are in violation;
- (2) The insurance commissioner if insurance company personnel are in violation;
- (3) The regulated industries complaints office if health care providers are in violation; or
- (4) The department and the state ethics commission if hearings officers are in violation.

for investigation and, if appropriate, disciplinary action.

(d) A criminal offense under this section shall constitute a:

- (1) Class C felony if the value of the moneys obtained or denied is not less than \$2,000;
- (2) Misdemeanor if the value of the moneys obtained or denied is less than \$2,000; or
- (3) Petty misdemeanor if the providing of false information did not cause any monetary loss.

Any person subject to a criminal penalty under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the fraudulent act.

(e) In lieu of the criminal penalties set forth in subsection (d), [Any] any person who violates this section [shall] may be subject to the administrative penalties of restitution of benefits or payments fraudulently received under this chapter, whether received from an employer, insurer, or the special compensation fund, to be made to the source from which the compensation was received, and one or more of the following:

- (1) A fine of not more than [\$2,500] \$10,000 for each violation;
- (2) Suspension or termination of benefits in whole or in part;
- (3) Suspension or disqualification from providing medical care or services, vocational rehabilitation services, and all other services rendered for payment under this chapter;
- (4) Suspension or termination of payments for medical, vocational rehabilitation and all other services rendered under this chapter[.];
- (5) Recoupment by the insurer of all payments made for medical care, medical services, vocational rehabilitation services, and all other services rendered for payment under this chapter; or
- (6) Reimbursement of attorney's fees and costs of the party or parties defrauded.

(f) With respect to the administrative penalties set forth in subsection (e), [No] no penalty shall be imposed except upon consideration of a written complaint [which] that specifically alleges a violation of this section occurring within two years of the date of said complaint. A copy of [said] the complaint specifying the alleged violation shall be served promptly upon the person charged. The director or board shall issue, where a penalty is ordered, a written decision stating all findings following a hearing held not [less] fewer than twenty days after written notice to the person charged. Any person aggrieved by the decision may appeal [said] the decision under sections 386-87 and 386-88."

SECTION 17. Section 386-100, Hawaii Revised Statutes, is amended to read as follows:

**"§386-100 Deductible option for medical benefits in insurance policy.** (a) Each workers' compensation insurance policy issued by every insurer shall offer, at the option of the insured employer, a deductible for medical benefits in the amount of \$100, \$150, \$200, \$300, \$400, \$500, [or] \$2,500[.], \$5,000, or \$10,000, or greater if agreed upon by the insurer and the insured employer. The insured employer, if choosing to exercise the option, shall choose only one of the amounts as the deductible. The provisions of this subsection shall be fully disclosed to the prospective purchaser in writing.

(b) If an insured employer exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for the medical benefits paid for each claim of work injury suffered by an injured employee. The insurer shall not be liable for the deductible.

The insurer shall pay the entire cost of medical bills directly to the provider of services and then seek reimbursement from the insured for the deductible amount.

Deductible medical benefit amounts shall be reported by insurers as required by section 386-95 and shall be included in the total average annual compensation paid by all insurance carriers in determining the charge against employers not insured under section 386-121(a)(1) for the purpose of the special compensation fund."

SECTION 18. Section 431:14-103, Hawaii Revised Statutes, is amended to read as follows:

**“§431:14-103 Making of rates.** (a) Rates shall be made in accordance with the following provisions:

- (1) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (2) Due consideration shall be given to:
  - (A) Past and prospective loss experience within and outside this State; provided that if the claim does not exceed the selected deductible amount pursuant to section 386-100, and the employer reimburses the insurer for the amount, the claims shall not be calculated in the employer's experience rating or risk category;
  - (B) The conflagration and catastrophe hazards, if any;
  - (C) A reasonable margin for underwriting profit and contingencies;
  - (D) Dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;
  - (E) Past and prospective expenses both country-wide and those specially applicable to this State;
  - (F) Investment income from unearned premium and loss reserve funds; and
  - (G) All other relevant factors within and outside this State.
- (3) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which that experience is available.
- (4) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (5) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans [which] that establish standards for measuring variations in hazards or expense provisions, or both. These standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. No risk classification may be based upon race, creed, national origin, or the religion of the insured.
- (6) Manual, minimum, class rates, rating schedules, or rating plans shall be made and adopted, except in the case of:
  - (A) Special rates where manual, minimum, class rates, rating schedules, or rating plans are not applicable; and
  - (B) Specifically rated inland marine risks.
- (7) No insurer authorized to do business in this State shall issue any policy [which] that provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other means, other than common majority ownership of the risks, or except where:
  - (A) A common stock ownership in and management control of the risks are held by the same person, corporation, or firm;
  - (B) Permitted or authorized by filings in existence as of January 1, 1988, under the casualty rating law and the fire rating law, as these filings may be amended from time to time;

- (C) Health care providers, as defined in section 671-1 [which] that could have joined the patients' compensation fund as it existed in chapter 671, part III, prior to May 31, 1984, joined together with one or more groups of related or unrelated health care providers;
- (D) Permitted under article 12; or
- (E) Otherwise expressly provided by law.

(b) In cases of workers' compensation insurance, all rates made in accordance with this section shall be given due consideration for good safety records of employers. By premium reductions, dividends, or both, insurance carriers shall recognize good safety performance records of employers in this State.

(c) [Except to the extent necessary to meet the provisions of subsection (a)(1), uniformity among insurers in any matters within the scope of this section shall neither be required nor prohibited.] Upon issuance of a certificate by a certified safety and health professional to an employer that the employer has an effective safety and health program pursuant to section 396- , the insurer shall provide the employer with a workers' compensation insurance premium discount of at least five per cent. Standards for the issuance of certificates shall be included in rules adopted by the department of labor and industrial relations pursuant to chapter 91.

(d) For the purpose of ratemaking, all insurers shall treat a volunteer firefighter the same as a firefighter employed by a county fire department; provided that the volunteer firefighters are attached to a station where a commercial drivers license holder is on duty at all times or at least four commercial drivers license holders are members of the volunteer unit.

(e) Except to the extent necessary to meet the provisions of subsection (a)(1), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited."

SECTION 19. Section 431:14-104, Hawaii Revised Statutes, is amended by amending subsections (i) and (j) to read as follows:

"(i) The commissioner shall review filings and hold public hearings on the filings as soon as reasonably possible after they have been made [in order] to determine whether they meet the requirements of this article. The commissioner shall calculate the investment income and accuracy of loss reserves upon which filings are based, and the insurer shall provide the information necessary to make the calculation.

(j) Subject to the exception specified in subsection (k), each filing shall be on file for a waiting period of [thirty] ninety days before the filing becomes effective. The period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer, rating organization, or advisory organization [which] that made the filing that the commissioner needs the additional time for the consideration of the filing. Upon written application by the insurer, rating organization, or advisory organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period or any extension thereof."

## PART II

SECTION 20. Chapter 431, Hawaii Revised Statutes, is amended by adding two new sections to article 14 to be appropriately designated and to read as follows:

**“§431:14- Assigned risk pool; experience rating plan.** No employer shall be placed in an assigned risk pool for workers’ compensation insurance that does not utilize an experience rating plan that includes:

- (1) Reasonable eligibility standards;
- (2) Incentives for loss prevention;
- (3) Sufficient premium differentials to encourage safety; and
- (4) Provisions for reasonable and equitable limitations on the ability of policyholders to avoid the impact of past adverse claims experience through change of ownership, control, management, or operation.

**§431:14- Assigned risk pool; residual market plan.** (a) The commissioner shall establish a residual market plan to provide equitable apportionment of insurance that may be afforded to applicants who are in good faith entitled to, but who are unable to procure, such insurance through ordinary methods. The residual market plan shall include rules for classification of risks and rates.

(b) Any insured placed with the plan shall be notified that insurance coverage is being afforded through the plan and not through the private market. Written notification shall be given to the insured within ten days of placement with the plan.

(c) To ensure that plan rates are made adequate to pay claims and expenses, insurers shall develop a means of obtaining loss and expense experience at least annually. Each insurer shall submit a report on loss and expense experience, when available, with the department in sufficient detail to make a determination of rate adequacy.

(d) The plan shall provide a formula allowing an insurer who voluntarily removes an insured risk from the residual market to be eligible for a take-out credit applicable against that insurer’s residual market assessment base levied by the plan. The terms and conditions of the take-out credit shall be as follows:

- (1) An insurer shall receive a credit against its assessment base for the amount of the annual premium reflected in its financial statements for the respective calendar year. This reported premium shall be stated on the same financial basis as the premiums that are reported for use in determining each insurer’s residual market assessment base and shall be subject to subsequent adjustments and audits;
- (2) The credit applicable to the residual market assessment base shall be as follows:  
First year: \$2.00 credit for every \$1.00 of premium removed; Second year: \$1.00 credit for every \$1.00 of premium removed; and Third year: \$1.00 for every \$1.00 of premium removed;
- (3) If the insurer keeps the insured risk out of the residual market for three years, that insurer shall receive credit for each of three years. If the insurer does not write the business for three years, it shall receive credit only for the period of time that it covered the risk in the voluntary market. Under no circumstances shall an insurer receive credit for risks returned to the residual market within one policy year;
- (4) An insurer shall not return an insured taken from the residual market to the residual market after one year of coverage to subsequently reissue insurance to the insured to obtain the higher credit established for the first year of residual market removal in paragraph (2);
- (5) There shall be no maximum limit on credits received; provided that the credits shall not reduce the insurer’s assessment base below zero;
- (6) The kind and amount of coverage to be offered to voluntary risks shall not be less than those afforded by the policy being replaced, unless the kinds and amounts are refused by the insureds; and
- (7) The commissioner may approve loss sensitive rating plans for larger companies that generate more than \$150,000 in insurance premiums.

(e) The commissioner may adopt rules in accordance with chapter 91 to effectuate the purposes of this section.

(f) As used in this section, unless the context otherwise requires:

“Plan” means the residual market plan.

“Residual market assessment base” means the basis for assessing insurers for losses from the residual market, as provided for in a residual market plan.”

SECTION 21. There is established a special fund for the administration of workers' compensation insurance by the insurance commissioner to be called the workers' compensation insurance administration special fund.

This fund shall be used to pay the costs incurred in administering workers' compensation insurance. Costs shall include but not be limited to:

- (1) Costs related to public education and information;
- (2) Costs relating to closed claims studies;
- (3) Other studies and evaluations relating to workers' compensation insurance, which may include an analysis of the classifications of jobs and the assigned risk pool affecting the rates charged by insurers; and
- (4) Costs related to administrative contracts with personnel necessary to carry out the purposes of this Act.

For each fiscal year beginning 1995-1996 until fiscal year 2000-2001, up to \$150,000 shall be deposited into this special fund from the following sources:

- (1) Fair and equitable assessments to be made by the insurance commissioner on April of each year, on each insurer authorized to transact workers' compensation insurance in this State and each self-insurer;
- (2) Fair and equitable assessments to be made by the insurance commissioner for a one-time deposit into the fund, on each insurer authorized to transact workers' compensation insurance in this State and each self-insurer.

As of July 1, 2001, all unexpended and unencumbered balances remaining in the special fund shall transfer to the credit of the state general fund.

The insurance commissioner shall submit a complete and detailed report on the status of the fund's administration and expenditures to the legislature no later than twenty days before the convening of each regular legislative session.

The insurance commissioner may adopt rules effectuating the purposes of this section.

SECTION 22. The insurance commissioner is authorized to award residual market service contracts to one or more carriers through a bid process. This process shall be exempt from state procurement requirements under chapter 103D.

The insurance commissioner may establish personnel positions and appoint personnel as may be necessary for the performance of the insurance commissioner's duties in accordance with chapters 76 and 77; provided that the insurance commissioner may employ two auditors; and provided further that the auditors shall possess at least the minimum qualifications and experience required of comparable personnel in the workers' compensation insurance private sector.

The insurance commissioner shall examine the affairs, transactions, records, documents, classifications practices, pricing, safety programs, claims management, and service practices of assigned risk servicing carriers. The insurance commissioner shall also recommend improvements in the servicing and operations of the workers' compensation assigned risk pool in reports to be submitted to the legislature.

The insurance commissioner shall submit a preliminary report of its findings and recommendations, including recommendations for draft legislation, with regard to its examination of the assigned risk pool to the legislature no later than twenty

days before the regular session of 1996, and a final report no later than twenty days before the regular session of 1997.

### PART III

SECTION 23. The director of labor and industrial relations and the insurance commissioner shall conduct a comprehensive feasibility study of coordinated health care delivery systems for consideration by the legislature as potential alternatives to the current system of providing medical care, services, and supplies under the medical care component of the workers' compensation system. The study shall include but not be limited to identification of various alternatives, applicable actuarial studies, medical benefits, and insurance premium cost comparisons, and any recommended legislation if applicable. The study, along with findings and recommendations, shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1996.

SECTION 24. No later than July 1, 1996, the director of labor and industrial relations shall adopt rules, pursuant to chapter 91, for optional coordinated health care delivery systems under the workers' compensation system. The rules for optional coordinated health care delivery systems shall be submitted to the legislature no later than December 1, 1995. The legislature may disapprove the rules by concurrent resolution during the regular session of 1996.

SECTION 25. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 26. This Act shall take effect upon its approval; provided that:

- (1) Section 21 shall be repealed on July 1, 2001; and
- (2) If the legislature disapproves the rules for optional coordinated health care delivery systems by concurrent resolution, section 24 shall be repealed.

(Approved June 29, 1995.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

### ACT 235

S.B. NO. 15

A Bill for an Act Relating to Land Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Within a period of not more than [one hundred twenty days after the close of the hearing,] three hundred sixty-five days after the proper filing of a petition, unless otherwise ordered by a court, or unless a time extension, which shall not exceed ninety days, is established by a two-thirds vote of the members of the commission, the commission [shall], by filing findings of fact and conclusions of law, shall act to approve the petition, deny the petition, or to modify the petition by imposing conditions necessary to uphold the intent and spirit of this chapter or the policies and criteria established pursuant to section 205-17 or to assure substantial

compliance with representations made by the petitioner in seeking a boundary change. The commission may provide by condition that absent substantial commencement of use of the land in accordance with such representations, the commission shall issue and serve upon the party bound by the condition an order to show cause why the property should not revert to its former land use classification or be changed to a more appropriate classification. Such conditions, if any, shall run with the land and be recorded in the bureau of conveyances.”

SECTION 2. The commission shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to effectuate the purpose of this Act by December 31, 1995. Prior to the adoption of these rules, the existing rules of the commission shall remain in effect.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 1 of this Act shall take effect on December 31, 1995.

(Approved June 29, 1995.)

## ACT 236

S.B. NO. 158

A Bill for an Act Relating to Graffiti.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“§46-1.5 General powers and limitation of the counties.** Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

- (1) Each county shall have the power to frame and adopt a charter for its own self-government, which shall establish the county executive, administrative, and legislative structure and organization, including, but not limited to, the method of appointment or election of officials, their duties, responsibilities, and compensation, and the terms of their office.
- (2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures that may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property.
- (3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims against the county, but shall be prohibited from entering into, granting, or making in any manner any contract, authorization, allowance payment, or liability contrary to the provisions of any county charter or general law.
- (4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer.
- (5) Each county shall have the power to maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to



carry off storm waters; and to remove from the channels, and from the shores and beaches, any debris that is likely to create an unsanitary condition or become a public nuisance; provided that, to the extent any of the foregoing work is a private responsibility, the responsibility may be enforced by the county in lieu of the work being done at public expense. Counties also shall have the power to construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded, and to enact zoning ordinances providing that lands deemed subject to seasonable, periodic, or occasional flooding shall not be used for residence or other purposes in a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016).

- (6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so.
- (7) Each county shall have the power to exercise regulatory powers over business activity as are assigned to them by chapter 445 or other general law.
- (8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for.
- (9) Each county shall have the power to provide by ordinance for the improvement or maintenance assessments of districts within the county.
- (10) Except as otherwise provided, no county shall have the power to give or loan credit to, or in aid of, any person or corporation, directly or indirectly, except for a public purpose.
- (11) Where not within the jurisdiction of the public utilities commission, each county shall have the power to regulate by ordinance the operation of motor vehicle common carriers transporting passengers within the county and adopt and amend rules the county deems necessary for the public convenience and necessity.
- (12) Each county shall have the power to enact and enforce ordinances necessary to prevent or summarily remove public nuisances and to compel the clearing or removal of any public nuisance, refuse, and uncultivated undergrowth from streets, sidewalks, public places, and unoccupied lots, and in these connections, to impose and enforce liens upon the property for the cost to the county of removing and completing the necessary work where the owners fail, after reasonable notice, to comply with the ordinances. The authority provided by this paragraph shall not be self-executing, but shall become fully effective within a county only upon the enactment or adoption by the county of appropriate and particular laws, ordinances, or rules defining "public nuisances" with respect to each county's respective circumstances. The counties shall provide the property owner with the opportunity to contest the summary action and to recover the owner's property.
- (13) Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and to preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute, provided also that the statute does not disclose an express or implied intent that the statute shall be exclusive or uniform throughout the State.

- (14) Each county shall have the power to make and enforce within the limits of the county all necessary ordinances covering: all local police matters; all matters of sanitation; all matters of inspection of buildings; all matters of condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues; all matters of the collection and disposition of rubbish and garbage; and to provide exemptions for homeless facilities and any other program for the homeless authorized by chapter 358D, for all matters under this paragraph; and to appoint county physicians and sanitary and other inspectors as necessary to carry into effect ordinances made under this paragraph, who shall have the same power as given by law to agents of the department of health, subject only to limitations placed on them by the terms and conditions of their appointments; and to fix a penalty for the violation of any ordinance, which penalty may be a misdemeanor, petty misdemeanor, or violation as defined by general law.
- (15) Each county shall have the power to provide public pounds, to regulate the impounding of stray animals and fowl, and their disposition, and to provide for the appointment, powers, duties, and fees of animal control officers.
- (16) Each county shall have the power to purchase and otherwise acquire, lease, and hold real and personal property within the defined boundaries of the county and to dispose of the real and personal property as the interests of the inhabitants of the county may require, except that: any property held for school purposes may not be disposed of without the consent of the superintendent of education; no property bordering the ocean shall be sold or otherwise disposed of; and all proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes.
- (17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State.
- (18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of community promotion and public celebrations, the entertainment of distinguished persons as may from time to time visit the county, for the entertainment of other distinguished persons as well as public officials when deemed to be in the best interest of the community, and the rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance.
- (19) Each county shall have the power to:
  - (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, waterworks, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings and manage, regulate, and control the same;
  - (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic, and telegraphic service to the county;
  - (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways and for flushing the sewers; and

- (D) Open, close, construct, or maintain county highways or charge toll on county highways; provided that all revenues received from a toll charge shall be used for the construction or maintenance of county highways.
- (20) Each county shall have the power to regulate the renting, subletting, and rental conditions of property for places of abode by ordinance.
- (21) Unless otherwise provided by law, each county shall have the power to establish by ordinance the order of succession of county officials in the event of a military or civil disaster.
- (22) Each county shall have the power to sue and be sued in its corporate name.
- (23) Each county shall have the power to establish and maintain waterworks and sewer works; to collect rates for water supplied to consumers and for the use of sewers; to install water meters whenever deemed expedient; provided that owners of premises having vested water rights under existing laws appurtenant to the premises shall not be charged for the installation or use of the water meters on the premises; to take over from the State existing waterworks systems, including water rights, pipelines, and other appurtenances belonging thereto, and sewer systems, and to enlarge, develop, and improve the same.
- (24) (A) Each county may impose civil fines, in addition to criminal penalties, for any violation of county ordinances or rules after reasonable notice and requests to correct or cease the violation have been made upon the violator. Any civil fine may be administratively imposed after an opportunity for a hearing under chapter 91. Such a proceeding shall not be a prerequisite for any civil fine or injunctive relief ordered by the circuit court.
- (B) Each county by ordinance may provide for the addition of any unpaid civil fines, ordered by any court of competent jurisdiction, to any taxes, fees, or charges collected by the county. Each county by ordinance may also provide for the addition of any unpaid administratively imposed civil fines, which remain due after all judicial review rights under section 91-14 are exhausted, to any taxes, fees, or charges collected by the county. The ordinance shall specify the administrative procedures for the addition of the unpaid civil fines to the taxes, fees, or charges and may require hearings or other proceedings. After the unpaid civil fines are added to the taxes, fees, or charges as specified by county ordinance, the unpaid civil fines shall be deemed immediately due, owing and delinquent and may be collected in the same manner as the taxes, fees, or charges. The procedure for collection of unpaid civil fines authorized in this paragraph shall be in addition to any other procedures for collection available to the State and county by law or rules of the courts.
- (C) Each county may impose civil fines upon any person who places graffiti on any real or personal property owned, managed, or maintained by the county. The fine may be up to \$1,000 or may be equal to the actual cost of having the damaged property repaired or replaced. The parent or guardian having custody of a minor who places graffiti on any real or personal property owned, managed, or maintained by the county shall be jointly and severally liable with the minor for any civil fines imposed hereunder. Any such fine may be administratively imposed after an opportu-

nity for a hearing under chapter 91, but such a proceeding shall not be a prerequisite for any civil fine ordered by any court.

As used in this subparagraph, "graffiti" means any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances.

- (25) Any law to the contrary notwithstanding, any county mayor may exempt by executive order donors, provider agencies, homeless facilities, and any other program for the homeless under chapter 358D from real property taxes, water and sewer development fees, rates collected for water supplied to consumers and for use of sewers, and any other county taxes, charges, or fees; provided that any county may enact ordinances to regulate and grant the exemptions granted by this paragraph."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 237

S.B. NO. 396

A Bill for an Act Relating to the Personnel of Public Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§297- Public schools; minimum staffing levels.** (a) Schools with only one class for each grade level in kindergarten through grade six shall be exempt from the average statewide class size ratio that may be established under any collective bargaining agreement between the teacher's exclusive bargaining representative and the department of education. Such schools shall maintain a minimum staffing level of not less than one full-time equivalent teacher position per grade level per school, for kindergarten to grade six. This subsection shall not apply to a school with fewer than twelve students in any one grade level.

(b) The department of education shall carry out the purposes of this section using existing resource teachers within the state and district offices."

SECTION 2. The department of education, by the 1996-1997 school year, shall transfer to regular instruction (EDN 100), no fewer than 107 resource teachers and funding for full-time equivalent positions in the classroom for the purposes of alleviating additional enrollment increases; provided that no person transferred shall suffer a reduction in either compensation or benefits; and provided further that no new positions may be created for the purposes of this section.

The department of education may consider the transfer of positions under this section as part of the restructuring mandate of Section 28(b) of Act 272, Session Laws of Hawaii 1994.

The department of education shall submit to the legislature a status report detailing the teacher positions to be filled, the current capacity of those to fill the positions, and the program identification number and organization code number

under which those positions currently serve, no later than twenty days prior to the convening of the 1996 regular session.

SECTION 3. The department of education shall not create any new temporary or permanent educational officer positions without legislative authorization during the fiscal biennium 1995-1997. The department shall eliminate no less than twenty per cent of educational officer positions, other than principal, vice principal, athletic director, or business manager positions, during the fiscal biennium 1995-1997, ten per cent in each fiscal year of the biennium. The department shall identify and report positions to be eliminated to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions. Positions eliminated as a result of Act 212, Session Laws of Hawaii 1994, may be included in the count to meet the requirements of this section. All moneys realized as a result of this section shall be reallocated to the schools on the basis of enrollment and may be used at the discretion of the schools for the purposes of augmenting the instructional program, and shall not be considered as part of the department's operating budget request. For the purposes of this section, the department may reclassify educational officer positions not eliminated in order to provide for minimal impact on programmatic activity.

SECTION 3.<sup>1</sup> New statutory material is underscored.<sup>2</sup>

SECTION 4.<sup>1</sup> This Act shall take effect upon its approval.

(Approved June 29, 1995.)

#### Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

## ACT 238

S.B. NO. 487

A Bill for an Act Relating to Gasoline Dealers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 486H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§486H- Violation; penalties.** Any person who violates section 486H-10 shall be assessed a civil penalty of \$1,000 per day for each violation.”

SECTION 2. Section 486H-10, Hawaii Revised Statutes, is amended to read as follows:

**“[[§486H-10]] Prohibition of manufacturer or jobber from operating a service station.** (a) From July 31, 1993, to August 1, [1995,] 1997, no manufacturer or jobber shall operate a major brand, secondary brand, or unbranded retail service station in Hawaii to sell its petroleum products[.]; provided that for each dealer operated retail service station owned by a manufacturer or jobber opened on or after July 31, 1995, that manufacturer or jobber may open one company operated retail service station, up to a maximum of two company owned retail service stations.

For purposes of this subsection:

“Company operated retail service station” means a retail service station owned and operated by a manufacturer or jobber.

“Dealer operated retail service station” means a retail service station owned by a manufacturer or jobber and operated by a qualified gasoline dealer.

(b) For the purposes of this section, the term “to operate” means to engage in the business of selling motor vehicle fuel at a retail service station through any employee, commissioned agent, subsidiary company, or person managing a retail service station under a contract and on a fee arrangement with the manufacturer or jobber.

(c) This section shall not apply to any individual locations operated by any manufacturer or jobber on the effective date of this Act. Nor shall anything contained in this section prohibit a manufacturer or jobber from acquiring or constructing replacement retail service stations to replace any company-operated retail service stations in existence on July 30, 1993, that have subsequently closed due to the expiration or termination of the retail service station’s ground lease; provided that:

- (1) The manufacturer or jobber shall negotiate in good faith to renew the ground lease of the retail service stations; and
- (2) The replacement retail service stations shall be located within a one-mile radius of the retail service stations that they replace.

As used in this subsection, “good faith” means an honest and sincere intention to renew the ground lease of retail service stations.”

SECTION 3. Act 329, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. If a dealer vacates a location, before a replacement dealer can be found, the facility may be company operated for up to [one hundred twenty] one hundred eighty days. If a dealer cancels a lease prior to the expiration of the lease, or chooses not to accept a franchise renewal offer, and there is less than three years remaining for that lease, the facility may be company operated until the termination of that lease.”

SECTION 4. The attorney general shall provide a legal opinion twenty days prior to the convening of the regular session of 1996 on whether permanent divorcement would constitute a “taking” in violation of the Fifth Amendment of the United States and Hawaii constitutions and any other legal ramifications which may arise from permanent divorcement legislation.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 239

S.B. NO. 1286

A Bill for an Act Relating to Restrictions on Post Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-18, Hawaii Revised Statutes, is amended to read as follows:

**“§84-18 Restrictions on post employment.** (a) No former legislator or employee shall disclose any information which by law or practice is not available to the public and which the former legislator or employee acquired in the course of the former legislator’s or employee’s official duties or use the information for the former legislator’s or employee’s personal gain or the benefit of anyone.

(b) No former legislator [or employee shall], within twelve months after termination of the former legislator’s [or employee’s] employment, [assist] shall represent any person or business [or act in a representative capacity] for a fee or other consideration, on matters in which the former legislator [or employee] participated as [an employee.] a legislator or on matters involving official action by the legislature.

(c) No former [legislator or] employee [shall], within twelve months after termination of the former [legislator’s or] employee’s employment, [assist] shall represent any person or business [or act in a representative capacity] for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former [legislator or] employee had actually served.

(d) This section shall not prohibit any agency from contracting with a former legislator or employee to act on a matter on behalf of the State within the period of limitations stated herein, and shall not prevent such legislator or employee from appearing before any agency in relation to such employment.

(e) This section shall not apply to any person who is employed by the State for a period of less than one hundred and eighty-one days.

(f) For the purposes of this section, “represent” means to engage in direct communication on behalf of any person or business with a legislator, a legislative employee, a particular state agency or subdivision thereof, or their employees.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 240

S.B. NO. 1298

A Bill for an Act Relating to the Hawaii Teacher Standards Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER HAWAII TEACHER STANDARDS BOARD

§ -1 **Purpose and findings.** The purpose of this chapter is to transfer the responsibility for setting public school teacher certification standards from the department of education to the Hawaii teacher standards board. By transferring the authority to set certification standards from the department of education to the teacher standards board, the profession of teaching will attain a status comparable to that of other professions. The attainment of this status will ensure that qualified teachers will be employed to educate Hawaii's public school children.

Teacher standards have two objectives. The first objective is to provide every child in Hawaii with a teacher who is qualified to practice the profession of teaching. Because every child is compelled to attend school, no child should have to attend a classroom conducted by someone who has not been determined, in advance, to be qualified to practice this profession. The second objective is to establish public confidence in the teaching profession. To that end, all educators will be required to receive a license or credential from the teacher standards board qualifying them to teach in the school system.

The legislature finds that the provision of a quality education for the children of Hawaii is a critical function of state government. It is vitally important that the highest possible standards be applied to the training of teachers and the screening of teacher applicants. In light of national efforts to establish certificates for currently employed teachers, the legislature finds that a Hawaii teacher standards board will provide more public accountability when the State sets standards for teacher applicants, and will ensure a higher level of professionalism and excellence.

§ -2 **Definitions.** As used in this chapter:

“Board” means the Hawaii teacher standards board.

“Credential” means an emergency or temporary license issued under this chapter based on standards and guidelines set by the board.

“Department” means the department of education.

“License” means the document signifying the board's grant of permission to practice the profession of teaching.

“Superintendent” means the superintendent of education.

“Teacher” means an employee of the department of education paid under the salary schedule contained in the unit 5 collective bargaining agreement.

§ -3 **Hawaii teacher standards board established.** (a) There is established the Hawaii teacher standards board, which shall be placed within the department of education for administrative purposes only. The board shall consist of nine members, including four certified teachers, three educational officers, the chairperson of the board of education or the chairperson's designee, and the dean of the University of Hawaii college of education or the dean's designee.

(b) Except for the chairperson of the board of education, and the dean of the college of education, the governor shall appoint the members of the board pursuant to section 26-34, from a list of qualified nominees submitted to the governor by the departments, agencies, and organizations representative of the constituencies of the board. To the extent possible, the board membership shall reflect representation of elementary and secondary school personnel and the neighbor islands.

(c) Appointed board members shall serve three-year terms.

(d) Board members shall receive no compensation. When board duties require that a member take leave of the member's duties as a state employee, the appropriate state department shall allow the member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to perform that



member's duties. Board members shall be reimbursed for necessary travel expenses incurred in the conduct of official board business.

(e) The chairperson of the board shall be designated by the members of the board.

**§ -4 Licensing and credentialing standards.** (a) The board shall establish licensing and credentialing standards that govern teacher licensing and credentialing within the department. Licensing and credentialing standards established by the board shall be adopted as rules under chapter 91.

(b) In the development of its standards, the board shall consider the existing teacher applicant pool that is available in the State and the level of the qualifications of these applicants, as well as the nature and availability of existing pre-service higher education teacher training programs. The board shall also consider alternative certification, such as national teacher examinations, and credentials that certify competency in subject areas or programs taught in the public schools.

**§ -5 Powers and duties of the board.** In addition to establishing standards for the issuance of licenses and credentials, the board's powers shall also include:

- (1) Setting and administering its own budget;
- (2) Adopting, amending, repealing, or suspending the policies, standards, or rules of the board in accordance with chapter 91;
- (3) Receiving grants or donations from private foundations;
- (4) Submitting an annual report to the governor and the legislature on the board's operations;
- (5) Conducting a cyclical review of standards and suggesting revisions for their improvement;
- (6) Establishing licensing and credentialing fees in accordance with chapter 91; and
- (7) Establishing penalties in accordance with chapter 91.

**§ -6 Powers and duties of the department of education.** The department of education shall retain all of its rights and powers except for the authority provided to the Hawaii teacher standards board under this chapter. The department's powers and duties under this chapter shall be limited to administering the teacher licensing and credentialing process, including:

- (1) Issuing, renewing, revoking, suspending, and reinstating licenses and credentials;
- (2) Issuing credentials, not to exceed one year at a time, pending the submittal of transcripts and other documentation;
- (3) Issuing credentials, not to exceed one year at a time, to fill vacancies only after exhausting all reasonable recruitment means to find qualified, interested, and acceptable candidates;
- (4) Applying licensing and credentialing standards on a case-by-case basis and conducting licensing and credentialing evaluations;
- (5) Preparing and disseminating teacher licensing and credentialing information to schools and operational personnel;
- (6) Developing applicable rules and procedures;
- (7) Administering reciprocity agreements with other states; and
- (8) Implementing changes made by the board to licensing and credentialing standards.

**§ -7 Teachers; license required; renewals.** (a) Beginning with the 1997-1998 school year, no person shall serve as a teacher in a public school without first

having obtained a license or credential from the department under this chapter. All licenses issued by the department shall be renewable every five years; provided the licensee continues to satisfy the board's licensing standards. All credentials issued by the department shall be renewable every year, up to a maximum of three years; provided the credential holder continues to satisfy the board's credentialing standards and actively pursues appropriate licensing.

(b) No person shall be issued a license or credential without having first paid the fee established by the board in accordance with chapter 91.

§ -8 **Hawaii teacher standards board revolving fund.** There is established within the state treasury a revolving fund to be known as the Hawaii teacher standards board revolving fund, into which shall be deposited all fees collected pursuant to section -7, and all other moneys received by the board in the form of appropriations, fines, grants, or donations. The revolving fund shall be administered by the department and used to pay the expenses of the board, including but not limited to the payment of all operational and personnel costs, and reimbursements to board members for travel expenses incurred.

§ -9 **Refusal, suspension, revocation, and reinstatement of licenses.** (a) The superintendent shall serve as the final adjudicator for appeals relating to licensing and credentialing, including but not limited to the issuance or nonissuance of licenses and credentials, and the suspension, nonrenewal, and revocation of licenses and credentials.

(b) The superintendent shall establish procedures for the conduct of proceedings for the consideration of requests filed with the department. In every case to revoke or suspend a license or credential, the superintendent shall give the person concerned written notice and a hearing in conformity with chapter 91, and the superintendent shall provide for confidentiality of the proceedings to protect the parties. In all proceedings before it, the superintendent may administer oaths, compel the attendance of witnesses and production of documentary evidence, and examine witnesses. In case of disobedience by any person to any order of the superintendent or to any subpoena issued by the superintendent, or the refusal of any witness to testify to any matter that the person may be questioned lawfully, any circuit judge, on application of the board or a member thereof, shall compel obedience in the case of disobedience of the requirements of a subpoena issued by a circuit court or a refusal to testify.

(c) Any applicant who has been refused a license or credential, or any licensee or credential holder whose license or credential has been suspended or revoked, shall have the right to appeal the superintendent's decision to the circuit court of the circuit in which the applicant, licensee, or credential holder resides in the manner provided in chapter 91.

(d) Upon revocation of a license or credential, the department may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license or credential for the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had licenses, credentials, or other certificates revoked.

§ -10 **Penalty.** Any person who engages in the profession of teaching in a public school without first being issued a license or credential shall be fined not more than \$500. Any person who knowingly or intentionally violates this chapter by employing an individual as a public school teacher who does not possess a valid license or credential may be fined not more than \$500. All fines shall be deposited into the Hawaii teacher standards board revolving fund."

SECTION 3.<sup>1</sup> Section 297-2, Hawaii Revised Statutes, is amended to read as follows:

**“§297-2 Teachers; [qualifications;] certificates[.]; licenses and credentials.** No person shall serve as a teacher before the 1997-1998 school year in any public school without first having obtained a certificate from the department of education, which certificate shall be issued without cost to the teacher, in such form as the department determines. The department shall establish types of certificates in the educational field and the requirements to qualify for those certificates.

**Beginning with the 1997-1998 school year, no person shall serve as a teacher in any public school without first having obtained a license or credential pursuant to chapter \_\_\_\_\_ from the department of education in such form as the department determines.”**

SECTION 4. Section 297-4, Hawaii Revised Statutes, is amended to read as follows:

**“§297-4 Teaching without certificates; licenses or credentials; penalty.** Except as otherwise provided, before the 1997-1998 school year, whoever serves as a teacher[,] in any public school without holding an unrevoked certificate issued hereunder, shall be fined not more than \$25.

**Beginning with the 1997-1998 school year, whoever serves as a teacher in any public school without holding an unrevoked or unsuspended license or credential issued under chapter \_\_\_\_\_, shall be fined not more than \$500.”**

SECTION 5. Section 297-3, Hawaii Revised Statutes, is repealed.

SECTION 6. The department of education, upon request by the Hawaii teacher standards board, shall provide information relating to currently certified teachers as the board deems necessary to carry out its duties under this Act.

SECTION 7. The Hawaii teacher standards board shall submit a status report to the legislature at least twenty days prior to the convening of the regular session of 1996. The report shall include the status of the development of board rules, licensing and credentialing standards, and other administrative policies that may be adopted by the board.

SECTION 8. The department of education shall transfer \$20,000 in fiscal year 1995-1996, and the same sum in fiscal year 1996-1997, from the allotment made to teacher improvement services from the general fund appropriation made for instructional support (EDN 200), to the Hawaii teacher standards board revolving fund for the purposes of this Act.

SECTION 9. Teacher certification standards in effect on June 30, 1995, shall remain in effect until new standards are adopted by the Hawaii teacher standards board. Any person teaching in a public school who holds a teacher certificate issued by the department of education before the beginning of the 1997-1998 school year, shall be deemed qualified for a teacher license or credential, as appropriate, and the department of education shall issue to the person a license or credential to be effective at the beginning of the 1997-1998 school year pursuant to this Act.

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions

or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed.<sup>2</sup> New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 1995, and shall be repealed on June 30, 2000.

(Approved June 29, 1995.)

Notes

1. There is no section 2.
2. Edited pursuant to HRS §23G-16.5.

ACT 241

S.B. NO. 1367

A Bill for an Act Real Estate Sales.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467-1, Hawaii Revised Statutes, is amended by amending the definitions of “real estate broker” and “real estate salesperson” to read as follows:

““Real estate broker” means any person who, for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or lists, or solicits for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, or manages or offers to manage, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the person of the option and for the purpose or as a means of evading the licensing requirement of this chapter.

“Real estate salesperson” means any individual who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker, or is an independent contractor in association with a real estate broker, to sell or offer to sell, buy or offer to buy, or list, or solicit for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, or manages or offers to manage, any real estate, or the improvements thereon, for others as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the individual of the option and for the purpose or as a means of evading the licensing requirements of this chapter. Every real estate salesperson shall be under the direction of a real estate broker for all real estate transactions.”

SECTION 2. Section 467-4, Hawaii Revised Statutes, is amended to read as follows:

“**§467-4 Powers and duties of commission.** In addition to any other powers and duties authorized by law, the real estate commission shall:

- (1) Grant licenses, registrations, and certificates pursuant to this chapter;
- (2) Adopt, amend, or repeal rules as it may deem proper to effectuate this chapter and carry out its purpose, which is the protection of the general public in its real estate transactions. All rules shall be approved by the

governor and the director of commerce and consumer affairs, and when adopted pursuant to chapter 91 shall have the force and effect of law. The rules may forbid acts or practices deemed by the commission to be detrimental to the accomplishment of the purpose of this chapter, and the rules may require real estate brokers and salespersons to complete educational courses or to make reports to the commission containing items of information as will better enable the commission to enforce this chapter and the rules, or as will better enable the commission from time to time to amend the rules to more fully effect the purpose of this chapter, and, further, the rules may require real estate brokers and salespersons to furnish reports to their clients containing matters of information as the commission deems necessary to promote the purpose of this chapter. This enumeration of specific matters that may properly be made the subject of rules shall not be construed to limit the commission's broad general power to make all rules necessary to fully effectuate the purpose of this chapter;

- (3) Enforce this chapter and rules adopted pursuant thereto;
- (4) Suspend, fine, terminate, or revoke any license, registration, or certificate for any cause prescribed by this chapter, or for any violation of the rules, and may also require additional education or re-examination, and refuse to grant any license, registration, or certificate for any cause that would be a ground for suspension, fine, termination, or revocation of a license, registration, or certificate;
- (5) Report to the governor and the legislature relevant information that shall include but not be limited to a summary of the programs and financial information about the trust funds, including balances and budgets, through the director of commerce and consumer affairs annually, before the convening of each regular session, and at other times and in other manners as the governor or the legislature may require concerning its activities;
- (6) Publish and distribute pamphlets and circulars, produce seminars and workshops, hold meetings in all counties, and require other education [containing] regarding any information as is proper to further the accomplishment of the purpose of this chapter; [and]
- (7) Enter into contract or contracts with qualified persons to assist the commission in effectuating the purpose of this chapter[.]; and
- (8) Establish standing committees to assist in effectuating this chapter and carry out its purpose, which shall meet not less often than ten times annually, and shall from time to time meet in each of the counties."

SECTION 3. Section 467-8, Hawaii Revised Statutes, is amended to read as follows:

**"§467-8 Prerequisites for<sup>1</sup> license, registration, or certificate.** No license, registration, or certificate under this chapter shall be issued to:

- (1) Any individual applying for a real estate broker or salesperson license who does not satisfy the requirements set forth in section 467-9.5;
- (2) Any individual applying for a real estate broker or salesperson license unless the individual has demonstrated by passing with a grade satisfactory to the commission an examination appropriate to the license sought that the individual has a reasonable knowledge of:
  - (A) Estates, interests, and rights in real property;
  - (B) The documents or acts or occurrences by which property is transferred or otherwise affected;

- (C) The rights and duties of an agent;
- (D) The laws of the State relating to real estate brokers and salespersons; and
- (E) Other subjects that the commission determines to be essential for the protection of the general public in its real estate transactions;
- (3) Any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing;
- (4) Any partnership unless the real estate brokerage business thereof is under the direct management of a principal broker who is a general partner or employee thereof and [unless the general partner or employee] holds a real estate broker's license; [or]
- (5) Any corporation unless the real estate brokerage business thereof is under the direct management of a principal broker who is an officer or employee thereof and [unless the officer or employee] holds a real estate broker's license[.];
- (6) Any individual applying for a real estate broker's license who does not have a current active or inactive Hawaii real estate salesperson's license; or
- (7) Any person with a trade name, partnership, or corporation that is not currently registered with the department of commerce and consumer affairs; provided that no real estate salesperson's license shall be approved or issued with a trade name."

SECTION 4. Section 467-9.5, Hawaii Revised Statutes, is amended to read as follows:

**"§467-9.5 Prerequisites for examination.** No individual shall be eligible for the licensing examination unless:

- (1) The individual is a citizen of the United States, or an alien who is authorized to work in the United States, and of the age of majority;
- (2) The individual applying for the real estate salesperson examination has satisfactorily completed a prelicensing course for real estate salesperson candidates which includes real estate principles, or its equivalent, approved or accredited by the commission;
- (3) The individual applying for the real estate broker examination has satisfactorily completed a prelicensing course for real estate broker candidates, or its equivalent, approved or accredited by the commission; [and]
- (4) The individual applying for the real estate broker examination:
  - (A) Is licensed as an active or inactive Hawaii real estate salesperson; and
  - (B) Has been engaged in the real estate business as a licensed Hawaii real estate salesperson as determined by the commission for not less than a [for a minimum] period of two years on a full-time basis and has practical experience in the real estate field as determined by the commission.

The commission may waive a portion of the [two years'] required experience, if the individual has had other experience or education in real estate, which, in the opinion of the commission, is equivalent to the required experience, to be established by detailed explanatory affidavit or in any other manner as may be determined by the commission[.]; or

- (5) Unless specifically authorized by the commission,

Each individual shall certify on the application for examination that the prerequisites set forth [above] in this section have been or will be satisfied prior to the date of

examination. The examination score of any individual who has taken the examination without having satisfied the prerequisites set forth [above] in this section prior to the date of examination shall be voided.”

SECTION 5. Section 467-11.5, Hawaii Revised Statutes, is amended to read as follows:

**“§467-11.5 Prerequisites for license renewal.** (a) Prior to the license renewal of a real estate broker or real estate salesperson, the licensee shall provide the commission with proof of having attended ten hours of continuing education or its equivalent as determined by the commission during the two year period preceding the application for renewal. Upon individual application and payment of the proper fee, the commission shall waive this requirement for the following reasons:

- (1) The licensee has been licensed in Hawaii on an active status for twenty or more years;
- (2) The licensee, as a trustee of a Hawaii private or charitable trust, is involved in real estate;
- (3) The licensee, as an active Hawaii licensed attorney or an active Hawaii licensed accountant, is involved in real estate; and
- (4) The licensee, as a participant in Hawaii public or community service at any time during the renewal period to which the waiver applies or eight years of such service, is involved in real estate or real estate laws.

Failure to satisfy the continuing education requirement by the license expiration date shall result in the license being automatically placed on an “inactive” status.

(b) To reactivate a license which has been placed on an “inactive” status the licensee shall submit to the commission proof of having satisfied the continuing education requirement of this section[.], a complete application setting forth such information as may be prescribed or required by the commission, and payment of the proper fee. Continuing education courses, as approved by the commission, may include but are not limited to:

- (1) Protection of the general public in its real estate transactions;
- (2) Consumer protection;
- (3) Improvement of the licensee’s competency and professional standards and practice; and
- (4) A curriculum level above the current minimal competency entry level.

(c) Courses offered by alternative delivery methods with interactive instructional techniques may be approved by the commission. Interactive instructional techniques may include but are not limited to:

- (1) The opportunity for immediate exchange with an instructor; and
- (2) Assessment and remediation through the assistance of computer, electronic, audio, or audiovisual interactive instruction designed to internally measure and evaluate whether students have mastered stated learning objectives.

(d) No license shall be renewed if the license trade name, partnership or corporation is not currently registered with the department of commerce and consumer affairs.”

SECTION 6. Section 467-14, Hawaii Revised Statutes, is amended to read as follows:

**“§467-14 Revocation, [and] suspension [of licenses.], and fine.** In addition to any other actions authorized by law, the [real estate] commission may revoke any license issued under this chapter, [or] suspend the right of the licensee to use the license, fine any person holding a license, registration, or certificate issued under this

chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent to do so of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for the licensee's services from both of the parties;
- (5) When the licensee, being a real estate salesperson, accepts any commission or other compensation for the performance of any of the acts enumerated in the definition set forth in section 467-1 of real estate salesperson from any person[, copartnership, or corporation] other than the real estate salesperson's employer or the real estate broker with whom the real estate salesperson associates or, being a real estate broker or salesperson, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesperson, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than the real estate salesperson's employer or the real estate broker with whom the real estate salesperson is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a [copartnership,] partnership, permits any member of the [copartnership] partnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesperson's license to act as a real estate salesperson therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesperson's license to act as a real estate salesperson therefor;
- (11) When the licensee, being a real estate salesperson, fails to file with the commission a written statement setting forth the name of the real estate broker by whom the licensee is employed or with whom the licensee is associated;
- (12) When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the real estate broker represents;
- (13) Violating this chapter; [chapters] chapter 484, 514A, 514E, or 515; section 516-71; or the rules adopted pursuant thereto;
- (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that notwithstanding paragraph (5), a [licensed] real estate broker may pay a commission to:



- (A) A licensed real estate broker of another state, territory, or possession of the United States if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid;
- (B) A real estate broker lawfully engaged in real estate brokerage activity under the laws of a foreign country if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid; or
- (C) A travel agency that in the course of business as a travel agency or sales representative, arranges for compensation the rental of transient vacation rental; provided that for purposes of this paragraph "travel agency" means any [sole proprietorship, organization, trust, group, association, partnership, corporation, society, or combination of such,] person, which for compensation or other consideration, acts or attempts to act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services, including an air or ocean carrier;
- (15) Commingling the money or other property of the licensee's principal with the licensee's own;
- (16) Converting other people's moneys to the licensee's own use;
- (17) The licensee is adjudicated insane or incompetent;
- (18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts; provided that for the purposes of this paragraph, the fact that an occupant has AIDS or AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency virus) infection shall not be considered a material fact;
- (19) When the licensee obtains or causes to be obtained, directly or indirectly, any licensing examination or licensing examination question for the purpose of disseminating the information to future takers of the examination for the benefit or gain of the licensee; or
- (20) Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.

Disciplinary action may be taken by the commission whether the licensee is acting as a real estate broker, or real estate salesperson, or on the licensee's own behalf."

SECTION 7. Section 467-15, Hawaii Revised Statutes, is amended to read as follows:

**"§467-15 Hearings.** In every case where it is proposed to revoke or suspend the exercise of any license, fine any person holding a license, registration, or certificate, terminate any registration or certificate, or take any other action authorized by law, for any of the causes enumerated in section 467-14, the person concerned shall be given notice and hearing in conformity with chapter 91.

In all proceedings before it, the commission and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In cases of disobedience by any person of any order of the commission, or any member thereof, or of any subpoena issued by it, or the member, or the refusal of any witness to testify to any matter to which the witness may be questioned lawfully, any circuit judge, on application by the commission, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein."

SECTION 8. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

**“§467-16 Real estate recovery fund; use of fund; fees.** (a) The [real estate] commission shall establish and maintain a trust fund which shall be known as the real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesperson, upon the grounds of fraud, misrepresentation, or deceit, may recover upon the commission’s settlement of a claim or by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$25,000 per transaction for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

(b) When any person makes application for an original license to practice as a real estate broker or salesperson the person shall pay, in addition to the person’s original license fee, a real estate recovery fund fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant.

(c) The commission, as the trustee of the real estate recovery fund, shall be authorized to expend the funds to:

- (1) Retain private legal counsel to represent the commission in any action involving or which may result in payment from the real estate recovery fund;
- (2) Retain a certified public accountant for accounting and auditing of the real estate recovery fund;
- (3) Employ necessary personnel, not subject to chapters 76 and 77, to assist the commission in exercising its powers and duties with respect to the real estate recovery fund; and
- (4) Retain a consultant to recover and collect any payments from the real estate recovery fund plus interest from the judgement debtor.”

SECTION 9. Section 467-26, Hawaii Revised Statutes, is amended to read as follows:

**“§467-26 Penalty.** Any person violating this chapter shall be fined not more than [\$1,000] \$5,000 for each violation.”

SECTION 10. Section 467-30, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All condominium hotel operators shall register with the commission as a sole proprietor, partnership, or corporation and shall:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission;
- (2) Register on an annual basis on or before December 31 of each year as a condominium hotel operator with the commission[.]; provided that after December 31, 1996, registration shall be on a biennial basis on or before December 31 of each even-numbered year. Registration information shall include but not be limited to the number of apartments managed for others as well as the number of apartments owned by the condominium hotel operator. Any operator failing to register with the commission shall be subject to a fine not exceeding an amount equal to \$25 multiplied by the aggregate number of apartments being utilized as

a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation;

- (3) Provide evidence of fidelity bonding to the commission in an amount equal to \$500 multiplied by the aggregate number of apartments in the condominium hotel operation; provided that the minimum of the bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The aggregate number of apartments excludes the number of apartments owned by the condominium hotel operator either as a sole proprietor, partnership, or corporation or those apartments included in a registered time share plan managed by a registered time share plan manager. The bond shall cover all of the condominium hotel operator's employees handling or having custody and control of either the condominium hotel operator's or the apartment owner's funds, or both[; and]. The commission may adopt rules establishing conditions and terms by which it may grant an exemption or bond alternative, or permit deductibles. No fidelity bond exemption shall be granted to a condominium hotel operator who is exempt from paragraph (1); and
- (4) Pay an application fee and upon approval an initial [and an annual] registration fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, which fees shall be deposited with the director of finance to the credit of the general fund;

provided that this subsection shall not apply to persons who are subject to section 467-2."

SECTION 11. Act 95, Session Laws of Hawaii 1987, is reenacted as of July 1, 1995; provided that Act 95, Session Laws of Hawaii 1987, as amended by Act 68, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:<sup>2</sup>

"SECTION 3. This Act shall take effect upon its approval and shall apply to license renewals for the biennium beginning January 1, 1991[; provided that this Act shall be repealed as of July 1, 1995]."

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

#### Notes

1. Prior to amendment "a" appeared here.
2. So in original.

## ACT 242

S.B. NO. 171

A Bill for an Act Relating to Uniform Information Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92F-14, Hawaii Revised Statutes, is amended to read as follows:

**"§92F-14 [Clearly unwarranted invasion of personal privacy.] Significant privacy interest; examples.** (a) Disclosure of a government record shall not

constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy [interests] interest of the individual.

(b) The following are examples of information in which the individual has a significant privacy interest:

- (1) Information relating to medical, psychiatric, or psychological history, diagnosis, condition, treatment, or evaluation, other than directory information while an individual is present at such facility;
- (2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;
- (4) Information in an agency's personnel file, or applications, nominations, recommendations, or proposals for public employment or appointment to a governmental position, except:
  - (A) Information disclosed under section 92F-12(a)(14); and
  - (B) The following information related to employment misconduct that results in an employee's suspension or discharge:
    - (i) The name of the employee;
    - (ii) The nature of the employment related misconduct;
    - (iii) The agency's summary of the allegations of misconduct;
    - (iv) Findings of fact and conclusions of law; and
    - (v) The disciplinary action taken by the agency;
 when the following has occurred: the highest non-judicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; a written decision sustaining the suspension or discharge has been issued after this procedure; and thirty calendar days have elapsed following the issuance of the decision; provided that this subparagraph shall not apply to a county police department officer [with respect to misconduct that occurs while the officer is not acting in the capacity of a police officer;] except in a case which results in the discharge of the officer;
- (5) Information relating to an individual's nongovernmental employment history except as necessary to demonstrate compliance with requirements for a particular government position;
- (6) Information describing an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness;
- (7) Information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license, except:
  - (A) The record of any proceeding resulting in the discipline of a licensee and the grounds for discipline;
  - (B) Information on the current place of employment and required insurance coverages of licensees; and
  - (C) The record of complaints including all dispositions; and
- (8) Information comprising a personal recommendation or evaluation."

SECTION 3.<sup>1</sup> The chief of each county police department shall submit an annual report to the legislature twenty days prior to the convening of the regular session in each year. The report shall include a summary of the facts and the nature of the misconduct for each incident which resulted in the suspension or discharge of a police officer, the disciplinary action imposed for each incident, and the number of

police officers suspended and discharged during the previous year under the following categories of the department's Standards of Conduct:

- (1) Malicious use of physical force;
- (2) Mistreatment of prisoners;
- (3) Use of drugs and narcotics; and
- (4) Cowardice.

The summary of facts shall not be of such a nature so as to disclose the identity of the individuals involved.

SECTION 4.<sup>1</sup> This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5.<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6.<sup>1</sup> This Act shall take effect upon approval.

(Became law on July 6, 1995, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. So in original.

**ACT 243**

S.B. NO. 1375

A Bill for an Act Relating to Financial Disclosure.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in 1962, Hawaii's two major newspapers were granted special permission by the federal government to operate jointly outside federal antitrust statutes. This authority to operate as a monopoly, as conferred under the Mutual Publishing Plan Agreement, was granted more than thirty years ago when the overwhelming weight of the evidence was that the state had two failing newspapers. Without the intervention of government, the state, and the public would have suffered by losing one, if not both, daily newspapers. Since 1962, there has been no review of the financial conditions of the two major daily newspapers. The legislature believes that the original justification for the monopoly granted by the public in 1962 may no longer be true.

The purpose of this Act is to:

- (1) Require the parties of the Mutual Publishing Plan Agreement to provide the attorney general with copies of income tax returns filed pursuant to section 235-4; and
- (2) Require the attorney general to share this information with the United States Department of Justice for its review.

The legislature finds that it is in the public interest to review the income tax returns of organizations granted special operating powers to carry out its responsibilities to the people of Hawaii.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
MEDIA PUBLICATIONS DISCLOSURE ACT**

**§ -1 General definitions.** As used in this chapter:

“Media” means any printed publication of general distribution in the state issued once or more per year that is a party to the Mutual Publishing Plan Agreement as executed on May 31, 1962, and any subsequent amendments.

**§ -2 Disclosure.** (a) The media shall submit to the attorney general, no later than thirty days after December 31 of the reporting year, an income tax return filed pursuant to section 235-4.

(b) Any media filing an annual income tax return pursuant to subsection (a) shall also furnish to the attorney general, in forms and at times that the attorney general deems necessary or expedient in the interest of the general public, special or supplementary reports covering information disclosed in subsection (a).

(c) Any report submitted pursuant to subsection (a) or (b) shall be a public record for the purposes of chapter 92F.

**§ -3 Annual report.** The attorney general shall submit an annual report to the United States Department of Justice with regard to the information provided in section -2.”

**SECTION 3.** If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

**SECTION 4.** This Act shall take effect upon its approval.

(Became law on July 6, 1995, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

## **PROPOSED CONSTITUTIONAL AMENDMENT**

### **S.B. NO. 887**

A Bill for an Act Proposing an Amendment to Section 11 of Article VII of the Constitution of the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Article VII of the Constitution of the State of Hawaii is amended by amending section 11 to read as follows:

#### **“LAPSING OF APPROPRIATIONS**

**Section 11.** All appropriations for which the source is general obligation bond funds or general funds shall be for specified periods, and no such appropriation shall be made for a period exceeding three years. Any such appropriation or any portion of any such appropriation which is unencumbered at the close of the fiscal period for which the appropriation is made shall lapse[; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement]. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed.

Any appropriation for which the source is general obligation bond funds or general funds or any portion of any such appropriation which is effective on the date of ratification of this amendment and which is unencumbered on June 30, 1980 shall lapse on that date unless earlier lapsed by law[; provided that no appropriation for which the source is general obligation bond funds nor any portion of any such appropriation shall lapse if the legislature determines such appropriation or any portion of such appropriation is necessary to qualify for federal aid financing and reimbursement]. Where general obligation bonds have been authorized for an appropriation, the amount of the bond authorization shall be reduced in an amount equal to the amount lapsed on June 30, 1980.”

SECTION 2. The question to be printed on the ballot shall be as follows:

“Should the exception that permanently prevents the lapsing of unencumbered general obligation bond funds which are deemed necessary by the legislature to qualify for federal aid financing and reimbursement be removed from the provision that requires the lapsing of all unencumbered funds at the end of each fiscal period?”

SECTION 3. Constitutional material to be repealed is bracketed.

SECTION 4. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

**Session Laws of Hawaii  
Passed By The  
Eighteenth State Legislature  
Special Session  
1995**

**ACT 1**

S.B. NO. 10-S

A Bill for an Act Relating to Housing Loan and Mortgage Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 7 of Act 50, Session Laws of Hawaii 1979, as amended by section 2 of Act 13, First Special Session of 1981, as further amended by section 1 of Act 224, Session Laws of Hawaii 1984, and as further amended by section 1 of Act 171, Session Laws of Hawaii 1991, is amended to read as follows:

“SECTION 7. **Issuance of revenue [bond;] bonds; amount authorized.** Revenue bonds may be issued by the housing fin development corporation pursuant to part III, chapter 39, and subpart B of part II of chapter 201E, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [\$1,275,000,000] \$1,775,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of its housing loan programs in subpart B of part II of chapter 201E, Hawaii Revised Statutes, relating to the funding or purchasing of eligible loans.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 27, 1995.)

**ACT 2**

S.B. NO. 12-S

A Bill for an Act Relating to the Clean Hawaii Center.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature enacted Act 202, Session Laws of Hawaii 1994, which created the clean Hawaii center. The purpose of the center is to work in partnership with business and government to develop and expand commercial markets for recyclable materials, recycled content products, and to facilitate recy-



cling and environmental business and technology development. The center provides technical and financial assistance to businesses and counties in reaching the solid waste reduction goals established by Act 324, Session Laws of Hawaii 1991. Act 324 established goals to reduce the solid waste stream by twenty-five per cent by January 1, 1995, and by fifty per cent by January 1, 2000. The legislature finds that further clarification of legislative intent is needed in order to provide operational authority for the clean Hawaii center and its board.

SECTION 2. Act 202, Session Laws of Hawaii 1994, is amended by adding two new sections to be designated and to read as follows:

“SECTION 5.1. The department of business, economic development, and tourism shall have the necessary powers to carry out the purposes of this Act and administer the clean Hawaii center, including but not limited to:

- (1) With advice from the board, prescribe the qualifications for eligibility of applicants for grants;
- (2) With advice from the board, establish preferences and priorities in determining eligibility for grants;
- (3) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this Act.

SECTION 6.1. Any other law to the contrary notwithstanding, nothing in this Act shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity, without regard to whether that person or entity receives any benefits under this Act, against the State or its officers and employees. The State and its officers and employees shall not be liable for the results of any investment, purchase of securities, loan, or other assistance provided pursuant to this Act; provided that such actions were taken with the consent of the board of the clean Hawaii center.”

SECTION 3. Act 202, Session Laws of Hawaii 1994, is amended as follows:

1. By amending section 2 to read:

“SECTION 2. (a) There is established within the department of business, economic development, and tourism, for administrative purposes only, the clean Hawaii center which shall be responsible for the market development of local processing and manufacturing industries for collected recyclables.

(b) The duties of the center shall be to:

- (1) Provide targeted assistance to recycling businesses, including:
  - (A) Grants for research and demonstration; and
  - (B) Low-interest, long-term loans leveraged through the Hawaii capital loan program, the Hawaii Strategic Development Corporation, the Hawaii Economic Development Corporation, the High Technology Development Corporation, the Hawaii innovative development fund, other state and federal financing programs, and private sector mechanisms including the Small Business Administration, targeting start-up and implementation costs;
 

[provided that the aggregate total of grants and loans under this paragraph shall be within the range of \$250,000 to \$1,000,000 from state programs;]
  - (C) The development of business plans;
  - (D) Market research and planning information;
  - (E) Referral and information on market conditions; and

- (F) Information on new technology and product development;
- (2) Undertake, in coordination with the department of health and county recycling programs, an integrated, comprehensive, education effort directed at government agencies, businesses, and the general public to promote processing, manufacturing, and purchase of recycled products. The education effort shall include:
- (A) Providing information to businesses on the availability and benefits of using recycled materials;
  - (B) Providing information and referral services on recycled material markets; and
  - (C) Providing information on new research and technologies that may be used by local businesses and governments;
- (3) Assist the department of health, department of accounting and general services, and the counties in the development of consistent definitions and standards for recycled product content, product performance, and availability;
- (4) Coordinate with the department of health to ensure that the education programs of both agencies are mutually reinforcing, with the center acting as the lead with respect to the business community and the department of health as the lead with respect to the general public; [and]
- (5) Facilitate, where possible, cooperative marketing of recyclable materials[.]; and
- (6) Administer the clean Hawaii fund.
- (c) In addition to other powers conferred upon it, the clean Hawaii center may do all things necessary and convenient to carry out the powers expressly and implicitly given in this Act[.], including but not limited to:
- (1) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the center including, but not limited to: advisory services, technical, managerial, and marketing assistance, support, and promotion;
  - (2) Accept donations, grants, bequests, and devises of money, property, service, or other things of value that may be received from the United States or any agency thereof, the State or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes specified in this Act detailing receipt of each donation or grant in the annual report of the center, and including the identity of the donor or lender, the nature of the transaction, and any conditions attaching thereto;
  - (3) Disburse moneys in the clean Hawaii fund, including the expenditure of all appropriations, grants, contractual reimbursements, and other funds to carry out the purposes of the center and pay for the proper general expenses of the center;
  - (4) Organize, conduct, sponsor, or cooperate in and assist in the conduct of conferences, demonstrations, and studies relating to the stimulation and formation of a business; and
  - (5) Promote, facilitate, contract out for, administer, or manage recycling parks; and
  - (6) Adopt rules pursuant to chapter 91 to carry out the purposes of this Act.”

2. By amending section 3 to read:

“SECTION 3. (a) The clean Hawaii center shall operate under policies established by a governing board to be composed of one representative from each of the four counties to be appointed by the respective mayors, and the following to be appointed by

the governor in accordance with section 26-34: one representative each from the department of business, economic development, and tourism and the department of health; two representatives from the financial community; and four representatives from the business community, two of which shall be from the recycling and waste management industry. The governing board shall be constituted no later than sixty days following the effective date of the Act. The department of health and the department of business, economic development, and tourism shall provide administrative and staff support to assist the start-up of the clean Hawaii center.

(b) A board member shall not participate in any decision to invest in, purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any person or entity in which the board member has a substantial financial interest.

(c) All members shall serve without compensation, but shall be reimbursed for travel expenses necessary for the performance of their duties.

(d) The board shall annually elect its chairperson and vice chairperson from among its members.

(e) Grants may be made for amounts not to exceed \$100,000 for each applicant. Applications for grants shall be made to the center and contain such information as the center shall require by rules adopted pursuant to chapter 91, Hawaii Revised Statutes.

(f) Chapter 42D, Hawaii Revised Statutes, shall not apply to the grants made pursuant to this Act.

(g) Any discussion or consideration of trade secrets or confidential commercial or financial information shall be held by the board, or any subcommittee of the board, in executive sessions closed to the public; provided that the purpose of any such executive session shall be set forth in the official minutes of the center, and business which is not related to that purpose shall not be transacted nor shall any vote be taken during the executive sessions.

[[c)] (h) The governing board shall use the following criteria, at a minimum, when evaluating recycling projects to develop and fund:

- (1) The project's potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) Whether the project addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) Whether the project maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The project's potential for job creation; and
- (5) Whether the board has been presented with a business plan that reflects detailed and justifiable expenses and revenues, and shows potential for profit and the ability to meet market demand for end products.

(i) The board or a committee of the board shall review all business plans, except financial statements or personal information, to assess whether the proposed business or enterprise is likely to achieve the purposes of this Act, and shall make recommendations to the department regarding the appropriateness of the proposed business or enterprise. The department shall have final authority to approve or disapprove the loan or grant application.

[(d)] (j) The use of state funds, lands, or other resources for county waste reduction activities shall be restricted to those counties whose solid waste management programs are consistent with the requirements of chapter 342G, Hawaii Revised Statutes, and applicable county integrated solid waste management plans approved pursuant to chapter 342G, Hawaii Revised Statutes.”

3. By amending section 9 to read:

“SECTION 9. The clean Hawaii center shall cease to exist on June 30, 1999[.]; provided that on June 29, 1999, all unexpended or unencumbered balances remaining in the clean Hawaii fund shall be transferred to the Hawaii capital loan program. Section 210-\_\_\_\_, Hawaii Revised Statutes, shall be repealed on June 30, 1999.”

SECTION 4. Chapter 210, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§210- Clean Hawaii fund established.** There is established within the state treasury a special fund to be known as the clean Hawaii fund which shall be administered by the department of business, economic development, and tourism to fund the activities of the clean Hawaii center. All moneys derived from:

- (1) Other funding mechanisms established by future state laws;
- (2) All moneys appropriated to the fund by the legislature, received in fees and other royalties, earned on investments, or received as royalties or premiums; and
- (3) Any other moneys as may be received by the clean Hawaii center in the form of federal, state, county, or private grants, contracts, or gifts;

shall be deposited into the clean Hawaii fund and used for the purposes of Act 202, Session Laws of Hawaii 1994. The department may use appropriations and other moneys in the clean Hawaii fund not appropriated for a designated purpose, to make grants in accordance with criteria established by the clean Hawaii center, enter into contracts, pay for travel expenses of board members, organize, conduct, sponsor, or cooperate in the conduct of conferences, workshops, demonstrations, and studies relating to the stimulation and formation of a recycling or environmental business.”

SECTION 5. Section 342G-49, Hawaii Revised Statutes, is repealed.

SECTION 6. There is appropriated from the clean Hawaii fund of the State of Hawaii the sum of \$300,000 for fiscal year 1995–1996, which may be expended for the purposes of the clean Hawaii center; provided that if no funds are available, the clean Hawaii center shall not act until such funds are made available.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved June 27, 1995.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 3

S.B. NO. 13-S

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations and entities,

for claims against the State or its officers or employees for overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

| REFUND OF TAXES:  | Amount                     |
|---|----------------------------|
| No cases  |                            |
| JUDGMENTS AGAINST THE STATE<br>AND SETTLEMENTS OF CLAIMS:   | Amount                     |
| Sharla C. Simpson v. State of Hawaii, et al.<br>Civ. No. 93-135K, Third Circuit   | \$ 68,038.40<br>Judgment   |
| Peggy Sue Wray v. State of Hawaii, et al<br>Civ. No. 91-4143, First Circuit   | \$ 20,000.00<br>Settlement |
| Robert Petricci, et al. v. Puna Geothermal Venture, et al.<br>Civ. No. 91-324, Third Circuit and Consolidated Cases   | \$ 25,000.00<br>Settlement |
| Stanley K. Palama v. State of Hawaii, et al.<br>Civ. No. 92-2049-06, First Circuit  | \$ 38,000.00<br>Settlement |
| Sulieti F. Pousini, et al. v. Eva H. Tonga, et al.<br>Civ. No. 91-3744-11 and<br>Sione Fotu and Toeumu Fotu v. Eva H. Tonga, et al.<br>Civ. No. 93-2548-06, First Circuit | \$ 75,000.00<br>Settlement |
| Eric Schroeder v. State<br>Civ. No. 93-1903-05  | \$143,528.76<br>Settlement |
| Claim of Larry Williams   | \$ 35,000.00<br>Settlement |
| Tanya Felix v. State of Hawaii, et al.<br>Civ. No. 92-0215  | \$ 20,000.00<br>Settlement |
| Claim of Hawaiian Cement  | \$ 18,765.47<br>Settlement |
| Barry Schnabel v. State of Hawaii, et al.<br>Civ. No. 90-2402-08  | \$ 12,815.92<br>Judgment   |
| Lyle K. Bonilla v. Toguchi et al.<br>Civ. No. 93-3952-10  | \$ 30,000.00<br>Settlement |
| Regina M. Diamantopulos, et al. v. Goshima, et al.<br>Civ. No. 92-2737-07   | \$ 50,000.00<br>Settlement |
| Marcia Linville v. State of Hawaii<br>Civ. No. 93-00661 ACK   | \$ 75,000.00<br>Settlement |
| Vicky Paulo v. State of Hawaii<br>Civ. No. 91-4280  | \$ 20,000.00<br>Settlement |
| Betty Young v. Caroline Tom, et. al.<br>Civ. No. 94-1735-05, First Circuit  | \$ 24,950.57<br>Judgment   |
| Burgo v. Falk, et al.<br>Civ. No. 91-163 HMF  | \$ 75,000.00<br>Settlement |

JUDGMENTS AGAINST THE STATE  
AND SETTLEMENTS OF CLAIMS:

|   |  |
|---|--|
|   | Amount                                   |
| Nesbit-Galiza v. State of Hawaii<br>Civ. No. 93-554, Third Circuit  | \$ 25,000.00<br>Settlement               |
| Francine Elizabeth Eakin, et al. v. State of Hawaii, et al.<br>Civ. No. 93-0413-02, First Circuit   | \$400,000.00<br>Settlement               |
| Marry Lee Robbennolt et al. v. George Sumner, et al.<br>Civ. No. 93-00379, Federal District Court   |  |
| Jane Roe 2 v. George Sumner, et al.<br>Civ. No. 93-00411 HMF, Federal District Court  |  |
| Jane Roe 3 v. George Sumner, et al.<br>Civ. No. 93-00757 ACK, Federal District Court  |  |
| Francine Elizabeth Eakin v. George Sumner, et al.<br>Civ. No. 93-00378 ACK, Federal District Court  |  |
| Sharon A. Klawfta v. George Sumner, et al.<br>Civ. No. 93-00664 ACK, Federal District Court   |  |
| Jane Doe v. Sumner, et al.<br>Civ. No. 93-00437 DAE, Federal District Court   | \$ 75,000.00<br>Settlement               |
| Lind v. Grimmer<br>Civ. No. 92-415 ACK, Federal District Court  | \$ 15,000.00<br>Settlement               |
| The Systemcenter v. State of Hawaii<br>Civ. No. 94-0457(1), Second Circuit  | \$ 5,000.00<br>Settlement                |
| Schroeder v. Rice, et al.<br>Civ. No. 95-00042 ACK/BMK (USDC);<br>Schroeder v. Medley, et al.<br>Civ. No. 94-00762 DAE/BMK (USDC);<br>Schroeder v. Afalava, et al.<br>Civ. No. 94-00535 DAE/BMK (USDC);<br>Schroeder v. Tavares, et al.<br>Civ. No. 93-00433 ACK/BMK (USDC);<br>Schroeder v. Dunaway, et al.<br>Civ. No. 92-00491 ACK/BMK (USDC);<br>Schroeder v. Sumner<br>Civ. No. 92-4606-12 (1st CC);<br>Schroeder v. McDonald<br>Civ. No. 91-00111 DAE/BMK (USDC)<br>Ninth Circuit Court of Appeals No. 93-15169;<br>Schroeder v. Kaplan, et al.<br>Civ. No. 90-00728 DAE/BMK (USDC)<br>Ninth Circuit Court of Appeals No. 17123; and<br>Schroeder v. Mabellos, et al.<br>Civ. No. 90-00475 HMF/BMK (USDC) | \$ 15,179.04                             |
| Mark Development Inc. v. HHA, et al.<br>Civ. No. 93-0028(1), 2nd Circuit Court  | \$600,000.00<br>Settlement               |
| Lusia Silva v. State of Hawaii, et al.<br>Civ. No. 94-2381-06, First Circuit Court  | \$ 11,674.04<br>Judgment and<br>Interest |

MISCELLANEOUS CLAIMS:

|                  | Amount      |
|------------------|-------------|
| Stacy Perlin     | \$ 220.00   |
| Merlin Olszewski | \$ 1,278.92 |
| Malia Elliott    | \$ 839.98   |

SECTION 2. The sums hereinabove appropriated may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for refunds of taxes, and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1996, shall lapse into the general fund of the State.

SECTION 5. If any provision of this Act, or the application thereof to any person or entity or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 27, 1995.)

ACT 4

S.B. NO. 14-S

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995-97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993-95 with the exclusive bargaining representatives of collective bargaining unit 3:

|               | <u>FY 1995-96</u> | <u>FY 1996-97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 637,097        | \$2,230,119       |
| Special Funds | \$ 94,943         | \$ 344,595        |
| Federal Funds | \$ 99,990         | \$ 375,534        |
| Other Funds   | \$ 24,680         | \$ 102,532        |

SECTION 2. Funds appropriated or authorized by section 1 shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for the purposes of this part.

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995–97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993–95 with the exclusive bargaining representatives of collective bargaining unit 3:

|               | <u>FY 1995–96</u> | <u>FY 1996–97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 75,864         | \$ 300,845        |
| Special Funds | \$ 3,599          | \$ 11,074         |
| Federal Funds | -0-               | -0-               |

SECTION 4. Funds appropriated or authorized by section 3 shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

## PART II

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995–97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993–95 with the exclusive bargaining representatives of collective bargaining unit 4:

|               | <u>FY 1995–96</u> | <u>FY 1996–97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 30,178         | \$ 67,440         |
| Special Funds | \$ 8,190          | \$ 21,121         |
| Federal Funds | \$ 5,248          | \$ 11,956         |
| Other Funds   | -0-               | \$ 916            |

SECTION 6. Funds appropriated or authorized by section 5 shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for the purposes of this part.

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995–97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993–95 with the exclusive bargaining representatives of collective bargaining unit 4:

|               | <u>FY 1995–96</u> | <u>FY 1996–97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 8,349          | \$ 14,492         |
| Special Funds | -0-               | \$ 1,222          |
| Federal Funds | -0-               | -0-               |

SECTION 8. Funds appropriated or authorized by section 7 shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.



**PART III**

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995-97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993-95 with the exclusive bargaining representatives of collective bargaining unit 13:

|               | <u>FY 1995-96</u> | <u>FY 1996-97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$2,202,300       | \$4,493,756       |
| Special Funds | \$ 320,227        | \$ 685,639        |
| Federal Funds | \$ 530,383        | \$1,094,292       |
| Other Funds   | \$ 48,072         | \$ 107,576        |

SECTION 10. Funds appropriated or authorized by section 9 shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for the purposes of this part.

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995-97 all collective bargaining cost items in the agreement negotiated in the fiscal biennium 1993-95 with the exclusive bargaining representatives of collective bargaining unit 13:

|               | <u>FY 1995-96</u> | <u>FY 1996-97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 352,617        | \$ 693,417        |
| Special Funds | \$ 3,884          | \$ 5,916          |
| Federal Funds | -0-               | -0-               |

SECTION 12. Funds appropriated or authorized by section 11 shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

**PART IV**

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995-97, the salary increases and other cost adjustments negotiated in the fiscal biennium 1993-95 and authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

|               | <u>FY 1995-96</u> | <u>FY 1996-97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 423,809        | \$1,044,809       |
| Special Funds | \$ 81,719         | \$ 201,976        |
| Federal Funds | \$ 44,398         | \$ 103,163        |
| Other Funds   | \$ 3,726          | \$ 11,978         |

SECTION 14. Funds appropriated or authorized by section 13 shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for the purposes of this part.

SECTION 15. There is appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1995–97, the salary increases and other cost adjustments negotiated in the fiscal biennium 1993–95 and authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining:

|               | <u>FY 1995–96</u> | <u>FY 1996–97</u> |
|---------------|-------------------|-------------------|
| General Funds | \$ 66,672         | \$ 153,740        |
| Special Funds | -0-               | -0-               |
| Federal Funds | -0-               | -0-               |

SECTION 16. The sums appropriated or authorized by section 15 shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

### PART V

SECTION 17. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 18. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 1996, and June 30, 1997, of the respective fiscal years, shall lapse as of those dates.

SECTION 19. This Act shall take effect on July 1, 1995.

(Approved June 27, 1995.)

## ACT 5

S.B. NO. 15-S

A Bill for an Act Relating to Public Access.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I. PUBLIC ACCESS ROOM/STATE CAPITOL AND SOUND SYSTEM

SECTION 1. The legislature finds that an informed and active citizenry is essential to ensure a healthy democracy that nurtures and provides for a government for, by, and of the people. Since the legislature relies heavily on direct public input in its decision making, a permanent public access program was established in Act 259, Session Laws of Hawaii 1994, to encourage, educate, and support citizen participation in the legislative process.

A major component of the legislature's public access program is the public access room in the state capitol. The public access room provides staff to educate citizens in the legislative process and the use of computer technology for retrieving legislative information. In the public access room, computer terminals, facsimile and copy machines, work space to prepare testimony, and a variety of other equipment and services are provided for public use.

In addition, when the legislature returns to the state capitol, it is critical that the public can hear the proceedings while attending public hearings. The installation

and use of sound systems in conference rooms in the state capitol is indispensable in assuring public access to the legislature.

The purpose of this part is to provide funds for staff, operations, and equipment of the public access room, and the installation and operation of sound systems for house and senate conference rooms in the state capitol.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1995–1996, to provide year-round funding for the staff, equipment, and operation of the public access room.

The sum appropriated shall be expended by the legislature for the purposes of this part.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary for fiscal year 1995–1996, for the installation and operation of sound systems for house and senate conference rooms in the state capitol:

|                                |          |
|--------------------------------|----------|
| House of Representatives ..... | \$20,000 |
| Senate .....                   | \$20,000 |

The sums appropriated shall be expended by the house of representatives and the senate respectively, for the purposes of this part.

## PART II. BROADCASTS OF LEGISLATIVE PROCEEDINGS

SECTION 4. The legislature, through the passage of Act 331, Session Laws of Hawaii 1989, embarked upon a program to increase public access and participation in the legislative process through the utilization of new information technologies. Act 259, Session Laws of Hawaii 1994, provided funds for the broadcast of the 1995 legislative session. The legislature wishes to continue to provide greater public access to legislative proceedings by making possible the broadcasting of floor sessions, committee hearings, and briefings via cable television to all counties in the State.

The purpose of this part is to appropriate funds to provide for broadcasts of legislative proceedings, authorize expenditure of previously appropriated funds for legislative broadcasts in 1995 and 1996, and appropriate funds for plans and design to install broadcast infrastructure and equipment to provide television broadcasts of legislative proceedings.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1995–1996, for production and distribution of television broadcasts of legislative proceedings during 1995–1996.

The sums appropriated shall be expended by the legislature for the purposes of this part.

SECTION 6. Act 259, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary for fiscal [year] years 1994–1995[,] and 1995–1996, for the purposes of providing cable

television broadcasts [for the 1995 regular legislative session:] of legislative proceedings:

|                                |           |
|--------------------------------|-----------|
| Senate .....                   | \$100,000 |
| House of Representatives ..... | \$100,000 |

The sums appropriated shall be expended by the senate and the house of representatives, respectively, for the purposes of this Act.”

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary for fiscal year 1995–1996, for plans and design to install electronic hardware and equipment, which may include but not be limited to cameras, cables, control panels, and other equipment to provide greater public access to the legislature through television broadcasts of legislative proceedings.

The sum appropriated shall be expended by the legislature for the purposes of this part.

PART III. EQUIPMENT FOR NEIGHBOR ISLAND PUBLIC ACCESS

SECTION 8. The state and federal governments have realized the importance of public access community television by mandating that a portion of the revenues generated by local cable companies support public, educational, and governmental programming. On Kauai, community television is provided by Ho‘ike Kauai; on Maui, by Akaku: Maui Community Television; and on Hawaii, by Na Leo ‘O Hawai‘i. These private, nonprofit organizations transmit, via stations provided by local cable companies, programming that includes proceedings of the legislature. Unfortunately, current technology requires that legislative proceedings be broadcast from Oahu to the neighbor islands at times when few residents are able to view them, such as late nights or early mornings. Improving the public access organizations’ equipment would permit them to tape these broadcasts, and replay them in prime time slots when viewership is greater.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$62,000, or so much thereof as may be necessary for fiscal year 1995–1996, for grants-in-aid to purchase taping and other equipment needed for rebroadcasting state legislative programming as follows:

|                                       |          |
|---------------------------------------|----------|
| Ho‘ike Kauai .....                    | \$18,500 |
| Akaku: Maui Community Television..... | \$16,800 |
| Na Leo ‘O Hawai‘i .....               | \$26,700 |

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 1995, except that section 6 shall take effect on June 29, 1995.

(Approved June 27, 1995.)

## ACT 6

H.B. NO. 1-S

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Kapiolani Health Care Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$45,000,000, in one or more series, for the purpose of assisting Kapiolani Health Care System and its not-for-profit subsidiaries in financing the capital costs related to new construction, renovation, and equipment purchase for Kapiolani Health Care System's health care facility subsidiaries. The legislature finds and determines that the activities and facilities of Kapiolani Health Care System's health care facility subsidiaries constitute projects as defined in part II, chapter 39A, Hawaii Revised Statutes, and that the financing thereof is assistance to health care facilities.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance shall not issue the special purpose revenue bonds authorized in section 2 until such time as the organization has obtained a certificate of need approval from the state health planning and development agency, if necessary, and is otherwise in compliance with the laws, ordinances, and rules of the State and counties, or any departments or boards thereof, with respect to the construction, operation, and maintenance of projects; compliance with health care planning laws or rules, or zoning laws or ordinances; obtaining of building permits; and compliance with building and health codes and other laws, ordinances, or rules of a similar nature pertaining to the foregoing projects.

SECTION 5. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds authorized in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 1999.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

## ACT 7

H.B. NO. 2-S

A Bill for an Act Relating to Criminal History Record Information.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to authorize the Hawaii criminal justice data center (HCJDC) and other state and county criminal justice agencies acting on HCJDC's behalf to charge fees for services related to criminal history record information, as has been done in thirty-nine other states, nationwide. The demand for such information has escalated in recent years. Requests for services from the criminal history record check program have increased from fewer than ten thousand in fiscal year 1986–1987 to nearly fifty-three thousand five hundred in fiscal year 1993–1994 alone. This increased reliance on and dissemination of criminal history record information has highlighted the importance of having accurate, timely, and complete information.

SECTION 2. Chapter 846, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§846- Criminal history record improvement revolving fund; established.** There is established a criminal history record improvement revolving fund. All proceeds accumulated by the Hawaii criminal justice data center or any state or county criminal justice agency through the assessment of fees for services as provided in section 846-10.5 related to criminal history record information from the state system shall be deposited into this revolving fund. Moneys in the revolving fund shall be expended by the Hawaii criminal justice data center and used to improve the criminal history record information system established under this chapter.”

SECTION 3. Section 846-10.5, Hawaii Revised Statutes, is amended to read as follows:

**“[§846-10.5] Fees.** (a) Except for services provided to criminal justice agencies and state or county agencies, the Hawaii criminal justice data center [may] and state and county criminal justice agencies shall assess [a reasonable fee for each service provided, including but not limited to, conducting criminal history record checks, processing applications for the expungement of arrest records, and accessing state criminal justice information.] the following fees for services provided or to be provided, which shall be deposited into the criminal history record improvement revolving fund:

- (1) For each Hawaii criminal history record name check, conducted by the data center, and other state and county agencies, \$10;
- (2) For each Hawaii criminal history record name check, via a public access terminal, for which a printout is requested, \$5 per printout;
- (3) For each fingerprint-based search of the Hawaii automated fingerprint identification system or manual fingerprint files, \$15;
- (4) For processing of each application for the expungement of arrest records, \$15;
- (5) For certification of documents, \$5 per document;
- (6) For each duplicate expungement certificate requested, \$10; and
- (7) For each complete set of fingerprints taken, \$10.

(b) Criminal history record checks mandated for child care facilities shall be exempt from the requirement to pay fees.

(c) Non-profit charitable organizations that are tax-exempt under the Internal Revenue Code (IRC) section 501(c)(3) will be exempt from fees for criminal history record checks conducted on adult volunteers having direct contact with minors.

(d) Any other law to the contrary notwithstanding, the data center may adopt rules pursuant to chapter 91 to establish other exemptions from the requirement to pay fees."

SECTION 4. There is appropriated out of the criminal history record improvement revolving fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1995-96, to improve the criminal history record information system established under Hawaii Revised Statutes chapter 846. The sum appropriated shall be expended by the Hawaii criminal justice data center.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 8

H.B. NO. 3-S

A Bill for an Act Relating to Coffee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 147, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§147- Coffee inspection revolving fund.** There is established a revolving fund for use by the department of agriculture in providing inspection services to ascertain and certify the grade, classification, quality, or condition of fresh or processed coffee. Moneys in the fund may be expended for materials, salaries, equipment, training, and other costs related to provide inspection services. The department of agriculture shall fix, assess, and collect fees for coffee inspection services provided. The fees shall be in an amount necessary to cover all costs of the administration and provision of coffee inspection services; provided that the department shall establish charges for traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance. The fees and charges established by the department shall not be subject to chapter 91. Notwithstanding section 147-10, moneys derived from the inspection services provided shall be deposited in the fund. Coffee inspectors appointed under this section shall be exempt from the provisions of chapters 76 and 77."

SECTION 2. Section 147-7, Hawaii Revised Statutes, is amended to read as follows:

**"§147-7 Inspection and classification of agricultural commodities; fees.** The department of agriculture may contract with the United States Department of Agriculture for obtaining the services of a supervising inspector employed by the federal department and the establishment of a cooperative inspection service with

the United States government. The board of agriculture, or the supervising inspector, with the approval of the board, may designate any competent employee or agent of the department as an inspector to inspect or classify agricultural commodities in accordance with [such] rules [and regulations] as the department may make, and at [such] the time and places as may be designated by the supervising inspector or the board. In addition, [such] the inspectors shall be authorized to inspect or classify agricultural commodities at the request of persons having a financial interest in the commodities and to ascertain and certify to [such] the persons the grade, classification, quality, or condition thereof and other pertinent facts. The department may fix, assess, and collect or cause to be collected fees for [such] the services when they are performed by employees of the department. The fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part; provided that the department may prescribe a reasonable charge for traveling expenses and extraordinary services when the performance of the services involves unusual cost in their performance. No fee shall be charged for an inspection unless the inspection was requested by a person having a financial interest in the inspected commodity. [Coffee inspectors appointed under this section shall be exempt from the provisions of chapters 76 and 77.]”

SECTION 3. Section 147-10, Hawaii Revised Statutes, is amended to read as follows:

**“§147-10 Income from marketing inspection and agriculture control activities.** [All] Except for fees collected by the department pursuant to section 147-, all fees, expenses,<sup>1</sup> and penalties collected by the department pursuant to this part shall be deposited with the director of finance to the credit of the general fund.”

SECTION 4. Section 147-58, Hawaii Revised Statutes, is amended to read as follows:

**“§147-58 Department; inspections, etc.; request necessary.** The board of agriculture may designate any employee or agent of the department of agriculture to inspect or classify food products, in accordance with such regulations as the department may prescribe, at the request of persons having an interest in the products, and to ascertain and certify to the persons the grade, classification, quality, or condition thereof and [such] other pertinent facts as the department may require. [Such] The inspections, classifications, and certifications shall be requested, and in no case shall be required by the department. [Coffee inspectors appointed under this section shall be exempt from the provisions of chapters 76 and 77.]”

SECTION 5. The department of agriculture shall submit a report to the legislature not later than twenty days before the convening of the regular session of 1996 and the regular session of 1997 on the progress and the actions taken to establish the coffee inspection revolving fund, including a report on the fees collected by the fund.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1995–1996, to be paid into the coffee inspection revolving fund created in section 147- , Hawaii Revised Statutes; provided that the coffee growing industry may deposit funds to the coffee inspection revolving fund for the purposes of this Act.

The sum appropriated by this Act shall be expended by the department of agriculture for the purposes of this Act.



SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 8. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

#### Notes

1. Comma should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 9

H.B. NO. 5-S

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to facilitate funding, through the issuance of general obligation bonds, to construct, expand, and maintain quality educational facilities for Hawaii's children. This Act also amends various provisions relating to the expenditure of funds by the department of education to ensure full adherence to the spending priorities established by the legislature.

SECTION 2. The director of finance is authorized to issue general obligation bonds in the sum of \$90,000,000 in fiscal year 1995-1996 and \$90,000,000 in fiscal year 1996-1997, or so much thereof as may be necessary, and the same sum is appropriated for deposit into the state educational facilities improvement special fund for each of those fiscal years; provided that the department of education shall not be required to assume the payment of the debt service associated with the general obligation bonds authorized under this section.

SECTION 3. Section 296D-3, Hawaii Revised Statutes, is amended to read as follows:

**“§296D-3 Distribution of resources.** [(a)] The superintendent of education shall allot the moneys of the school priority program to the school districts based on enrollment. In the allotment of positions to the districts, the superintendent shall calculate each district's entitlement based on enrollment and [shall] may deploy [or redeploy positions beginning September, 1983, such that each district will be provided with its full entitlement of positions by September, 1985.] one instructional resource augmentation position for each two hundred fifty students enrolled in each school; provided that all positions shall be deployed.

[(b)] The district superintendents may withhold up to seven per cent of their district allotment of moneys for a reserve which may be used, first, to ensure that any elementary school may continue its participation in the Hawaii English Program at its fiscal 1981-82 level, and second, for such purposes as unforeseen enrollment increases, compliance with comparability requirements, emergency school need for funds, and special school projects that directly benefit students. After deducting the district reserve, the district superintendents shall allot the balance of the moneys to the schools based on enrollment. In the allotment of positions to the schools, the district superintendents shall strive for equity using enrollment as a guide without unduly fractionating individual positions.

(c) The district superintendents may transfer moneys in an equitable manner among schools in the event of significant shifts in enrollment.]”

SECTION 4. Section 296-2.58, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§296-2.58]]~~ **School system financial [structure.] accountability.** (a) [The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:

“Administrative expenses” means those state, district, or other regional administrative unit expenditures pertaining to:

- (1) Business services;
- (2) Personnel services;
- (3) Compliance with laws and rules;
- (4) Facilities planning;
- (5) Telecommunications and information system services;
- (6) Planning and evaluation;
- (7) Communications and public relations;
- (8) Administration of state, regional, and district offices; and
- (9) Other state, district, and regional functions.

“Instructional expenses” means those expenses pertaining to:

- (1) The operation and maintenance of school facilities;
- (2) School instructional personnel;
- (3) School food services;
- (4) School-based health services;
- (5) After-school care;
- (6) Learning support centers;
- (7) Curriculum development;
- (8) Training of instructional personnel and non-instructional school staff;
- (9) Diagnostic services;
- (10) School administration;
- (11) School safety and security services; and
- (12) Other such expenses incurred in the delivery of instruction at the school and complex level.

(b) Beginning with the 1995–1997 fiscal biennium, the department’s [operating budget for the public school system shall separate administrative from instructional expenses and shall be submitted to the governor pursuant to chapter 37; provided that the department’s] administrative expenditures shall not exceed 6.5 per cent of the total department operating budget unless approved by the legislature.

[c] (b) The department shall not transfer any funds [from instructional expenditure categories for administrative expenditures,] appropriated under the school-based budgeting program EDN 100 of the state budget, except for unforeseeable circumstances that pose a threat to the health and safety of personnel and students, and subject to approval by the governor and notification to the legislature. For the purposes of this part, “EDN 100” means the budget program identification number for the school-based budgeting program within the department of education.”

SECTION 5. Section 296-2.59, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§296-2.59]]~~ **School-based budget flexibility.** For the purposes of this section, “school-based budget flexibility” means an operating budget preparation and allocation process which shall provide maximum flexibility to individual schools, complexes, and learning support centers in the preparation and execution of their operating budgets. The flexibility shall be limited to the school-based budgeting program EDN 100 of the department. Beginning with the 1995–1997 fiscal

biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers.”

SECTION 6. Section 37-41.5, Hawaii Revised Statutes, is amended to read as follows:

**“§37-41.5 Department of education; carryover of funds.** (a) The department of education may retain up to five per cent of any appropriation for the school-based budgeting program EDN 100 at the close of a fiscal year and the funds retained shall not lapse until June 30 of the first fiscal year of the next fiscal biennium. The department of education shall submit:

- (1) A report to the director of finance, by the close of the first fiscal year, identifying the total amount of funds that will carry over to the second fiscal year; and
- (2) A copy of this report to the legislature, as well as a report identifying the carryover of funds on a school-by-school basis, at least twenty days prior to the convening of the next regular session of the legislature.

(b) Any appropriation retained in accordance with this section [may be used by the department of education only for instructional purposes at the schools, complexes, or learning support centers,] shall be used exclusively for the school-based budgeting program EDN 100, and of those appropriations allocated to the schools, funds shall remain within the budget of the school to which they were originally allocated; provided that the retention of an appropriation shall not be used by the department as a basis for reducing [the department’s future budget requests unless the department requests such a reduction.] a school’s future budget requirements. For the purposes of this chapter, “EDN 100” means the budget program identification number for the school-based budgeting program within the department of education.”

SECTION 7. The sum appropriated in section 2 of this Act shall be expended by the department of accounting and general services.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 10

H.B. NO. 6-S

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the campaign spending laws to encourage citizen participation in the electoral process, prevent the actuality or appearance of corruption, equalize the resources of candidates, and gather data to detect violations of the campaign spending law’s contribution limitations.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended as follows:

1. By adding four new sections to be appropriately designated and to read:

**“§11- Commissioners; political activities.** (a) A member of the commission or its staff shall not participate in any political campaign during the member’s or employee’s term of office or employment including making a financial contribution to a candidate or political committee.

(b) Each commissioner shall retain the right to:

- (1) Register and vote as the commissioner chooses in any election;
- (2) Participate in the nonpolitical activities of a civic, community, social, labor, or professional organization, or of a similar organization;
- (3) Be a member of a political party or other noncandidate political organization and participate in its activities to the extent consistent with law; and
- (4) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the commissioner’s efficiency or integrity as a commissioner or the neutrality, efficiency, or integrity of the commission.

(c) A commissioner may request an advisory opinion from the state ethics commission to determine whether a particular activity constitutes or would constitute a violation of the code of ethics or this section.

**§11- Campaign contributions by state contractors.** (a) Any person making a contribution to any candidate, committee, or political party, and who has received, in any calendar year, \$50,000 or more through contracts from the State, or county shall register and report that fact to the commission within thirty days of the date of the contribution or within thirty days of the date of the contract, whichever occurs later; provided that this section shall not apply to a person who has received \$50,000 or more through a grant, subsidy, or purchase of service agreement under chapter 42D.

(b) The commission shall prescribe forms and procedures for the reporting required in subsection (a) which, at a minimum, shall require the following information:

- (1) The name and address of the person making the contribution;
- (2) The name of the candidate, committee, or political party receiving the contribution;
- (3) The amount of money received from the State or county, the dates, and information identifying each contract and describing the service performed or goods provided; and
- (4) If an entity is making the contribution, the names and business addresses of the principals, including officers and directors.

(c) The commission shall maintain a list of such reports for public inspection both at the commission’s office and through the state FYI electronic bulletin board.

**§11- Campaign contributions; loans.** (a) Any loan to a candidate in excess of \$100 shall be documented and disclosed as to lender and purpose of the loan in the subsequent report to the commission. Failure to document the loan or to disclose the loan to the commission shall cause the loan to be treated as a campaign contribution, subject to all relevant provisions of this chapter.

(b) Any loan by a financial institution regulated by the State or a federally chartered depository institution and made in accordance with applicable law in the ordinary course of business, shall not be deemed a contribution and not subject to the contribution limits provided under section 11-204.

**§11- Organizational report, noncandidate committee.** (a) The organizational report shall include:

- (1) The full name of the committee, which may not include the name of a candidate;
- (2) The complete mailing address and telephone number of the committee;
- (3) The date the committee was organized;
- (4) The area, scope, or jurisdiction of the committee;
- (5) An indication as to whether the committee is a political party committee;
- (6) The name and mailing address of a corporation or an organization that provides funds to the committee. If the committee is not sponsored by or connected with a corporation or an organization, the committee must specify the trade, profession, or primary interest of contributors to the committee;
- (7) The full name, mailing address, telephone number, occupation, and principal place of business of the chairperson;
- (8) The full name, mailing address, telephone number, occupation, and principal place of business of the treasurer and any other officers;
- (9) An indication of whether the committee was formed to support or oppose a specific ballot question or questions, or candidate and if so, a brief description of the questions or the name of the candidate;
- (10) The full name, mailing address, telephone number, occupation, and principal place of business of the custodian of the books and accounts if other than the designated officers;
- (11) The full name and address of the depository in which the committee will maintain its campaign account;
- (12) Written acceptance of appointment by the chairperson and treasurer;
- (13) A certification of the statement by the chairperson and the treasurer; and
- (14) The name, address, occupation, and employer of each donor who has contributed an aggregate amount of more than \$100 since the last election and the amount and date of deposit of each such contribution.

(b) The name of the committee designated on the statement of organizations must incorporate the full name of the sponsoring entity, if any. An acronym or abbreviation may be used in other communications if the acronym or abbreviation is commonly known or clearly recognized by the general public.

(c) Any change in information submitted in the organizational report with the exception of subsection (a)(14) shall be reported no later than 4:30 p.m. on the tenth calendar day after the change is brought to the attention of the committee chairperson or treasurer. The accuracy of the information in the organizational report shall be affirmed, on forms provided by the commission, annually by September 1."

2. By amending section 11-191 to read:

**"§11-191 Definitions.** When used in this subpart:

[(1)] "Advertisement" means:

- [(A)] Any communication, exclusive of bumper stickers or other sundry items which identifies a candidate directly or by implication or which advocates or supports the nomination for election, or election, of the candidate or advocates or supports the candidate's defeat; and
- [(B)] Any communication, exclusive of bumper stickers or other sundry items which identifies an issue or question which appears or is reasonably certain to appear on the ballot at the next applicable

election, or which advocates or supports the passage or defeat of the question or issue.]

- (1) Any communication, exclusive of bumper stickers or other sundry items, that:
  - (A) Identifies a candidate either directly or by direct implication;
  - (B) Advocates or supports the nomination for election of the candidate;
  - (C) Advocates or supports the election of the candidate; or
  - (D) Advocates or supports the candidate's defeat.
- (2) Any communication, exclusive of bumper stickers or other sundry items, that:
  - (A) Identifies an issue or question that will appear on the ballot at the next applicable election; or
  - (B) Advocates or supports the passage or defeat of the question or issue.

[(2)] "Campaign treasurer" means a person appointed under section 11-198, and, unless expressly indicated otherwise, includes deputy campaign treasurers.

[(3)] "Candidate" means an individual who seeks nomination for election, or seeks election, to office. [An] Until an individual terminates the individual's candidacy with the commission, an individual is a candidate if the individual does any of the following:

- [(A)] (1) Files nomination papers for an office for oneself with the county clerk's office or with the chief election officer's office, whichever is applicable; or
- [(B)] (2) Receives contributions in an aggregate amount of more than \$100[,] or makes or incurs any expenditures of more than \$100 to bring about the individual's nomination for election, or to bring about the individual's election[,] to office]; provided that in no event shall a person be deemed a candidate by reason of the provisions set forth in this subparagraph and subparagraph (C) until January 1 of the year that person runs for election];
- [(C)] (3) Gives [the individual's] consent for any other person to receive contributions or make expenditures to aid the individual's nomination for election, or the individual's election, to office; or
- [(D)] (4) Is certified to be a candidate by the lieutenant governor or county clerk.

[(4)] "Candidate's committee" means a committee as defined in [paragraph (6)] this section which makes an expenditure or accepts a contribution in behalf of a candidate with the candidate's authorization.

[(5)] "Commission" means the campaign spending commission.

"Commissioner" means any person appointed to the campaign spending commission.

[(6)] "Committee" means:

- [(A)] Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate or individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears on the ballot at the next applicable election;
- [(B)] Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate or

individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures on behalf of, a candidate or individual who files for nomination at a later date and becomes a candidate, or party;]

- (1) Any organization, association, or individual that accepts a contribution or makes an expenditure for or against any:
  - (A) Candidate;
  - (B) Individual who files for nomination at a later date and becomes a candidate; or
  - (C) Party;  
with or without the authorization of the candidate, individual, or party.  
In addition, the term "committee" means any organization, association, or individual who accepts a contribution or makes an expenditure for or against any question or issue appearing on the ballot at the next applicable election;
- (2) Any organization, association, or individual that raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any:
  - (A) Candidate;
  - (B) Individual who files for nomination at a later date and becomes a candidate; or
  - (C) Party; and  
subsequently contributes money or anything of value to, or makes expenditures on behalf of, the candidate, individual, or party;
- [(C)] (3) Notwithstanding any of the foregoing, the term "committee" shall not include any individual making a contribution or expenditure of the individual's own funds or anything of value [which] that the individual originally acquired for the individual's own use and not for the purpose of evading any provision of this subpart;
- [(D)] (4) Any committee as defined in [subparagraph (A) which] paragraph (1) that makes contributions or expenditures in aggregate of more than \$1,000 per election to influence the nomination and election of individuals to public office or the outcome of ballot questions or issues, shall register with the [campaign spending] commission and file reports as required by this chapter; or
- [(E)] (5) Any committee as defined in [subparagraph (A),] paragraph (1), organized within six months of an election, whose sole electoral activity consists of direct contributions or expenditures in aggregate of more than \$1,000 per election [of individuals] to [public office or] influence the outcome of an election or ballot questions or issues, shall register with the commission prior to making any contributions or expenditures in aggregate of more than \$1,000 and shall submit a statement of contributions or expenditures to the [campaign spending] commission in lieu of filing reports as required by this chapter.
- [(7)] "Contribution" means:
  - [(A)] (1) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:
    - [(i)] (A) Influencing the nomination for election, or election, of any person to office; [or
    - (ii) (B) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election above; or

- [(iii)] (C) Use by any party for the purposes set out in [clause (i) or (ii)] subparagraph (A) or (B) above;
  - [(B)] (2) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in [clause (i), (ii), or (iii)] in subparagraph (A) above; or paragraph (1)(A), (1)(B), or (1)(C);
  - [(C)] (3) A contract, promise, or agreement to make a contribution; provided that notwithstanding [this subparagraph and subparagraphs (A) and (B),] this paragraph and paragraphs (1) and (2), the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
  - [(D)] (4) Notwithstanding [subparagraphs (A), (B), and (C),] paragraphs (1), (2), and (3), a candidate's expenditure of the candidate's own funds or the making of a loan or advance in the pursuit of the candidate's campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.
- [(8)] "Earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended on certain candidates, issues, or questions.
- [(9)] "Election" means any election for office or for determining a question or issue provided by law or ordinance.
- "Election period" means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year time period between general election days if a candidate is seeking nomination or election to a four-year office.
- [(10)] "Expenditure" means:
- [(A)] (1) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
    - [(i)] (A) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed the person's nomination paper;
    - [(ii)] (B) Influencing the outcome of any question or issue [which appears or is reasonably certain to appear] that has been certified to appear on the ballot at the next applicable election; or
    - [(iii)] (C) Use by any party or committee for the purposes set out in [clause (i) or (ii);] subparagraph (A) or (B);
  - [(B)] (2) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person [which] that are rendered to the candidate or committee for any of the purposes mentioned in [subparagraph (A);] paragraph (1); or
  - [(C)] (3) The expenditure by a candidate of the candidate's own funds for the purposes set out in [subparagraph (A).] paragraph (1).
- (4) The term does not include volunteer personal services and voter registration efforts that are not partisan.



[(11)] "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.

[(12)] "Immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

[(13)] "Individual" means a natural person.

[(14)] "Loan" means an advance of money, goods, or services, [or a guarantee, endorsement, or any other form of security,] with [an absolute] a promise to repay[.] in full or in part within a specified period of time.

[(15)] "Matching payment period" means:

[(A)] (1) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a [special primary or] special election through the day of a [special primary or] special election; and

[(B)] (2) For a general election, from the day after a primary [or special primary] election through the day of the general [or special general] election.

[(16)] "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.

"Noncandidate committee" means a committee as defined in this section and does not include a candidate's committee.

[(17)] "Office" means any elective public or constitutional office excluding county neighborhood board and federal elective offices.

[(18)] "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.

[(19)] "Political party" "Party" means any political party which satisfies the requirements of section 11-61.

[(20)] "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.

[(21)] "Qualifying campaign contribution" means a monetary contribution of \$100 or less, and not more than \$100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions.

"Special election" means any election other than a primary or general election.

"Terminate candidacy" means the date on which a candidate has no surplus or deficit and has filed a notice of termination with the campaign spending commission on forms prescribed by the commission."

### 3. By amending section 11-192 to read:

**"§11-192 Campaign spending commission.** There is established a campaign spending commission[, consisting of five members appointed by the governor as follows:

The judicial council shall select a panel of ten persons, consisting of five persons from the membership of each of the two political parties for which the greatest number of voters cast party ballots in the last preceding primary election. From this panel the governor shall appoint two members from each political party and a chairman]. The commission shall consist of five members of the general public, appointed by the governor from a list of ten nominees submitted by the judicial council. The judicial council may solicit applications for the list of nominees through community organizations and advertisements in any newspaper of general circulation. Any vacancies in the commission shall be filled by the governor with a member from the [panel] list of nominees or by reappointment of a [member]

commissioner whose term has expired, subject to the limit on length of service imposed by section 26-34[; provided the replacement member is from the same political party as the member being replaced; and provided further that the party is then one of the two political parties as determined above; otherwise, the replacement member shall be from one of the parties not represented on the commission].

The judicial council shall meet and expeditiously select additional persons for the [panel] list of nominees whenever the number of the eligible [panel members] nominees falls below five[, or whenever a political party, being one of the two parties for which the greatest number of voters cast party ballots in the last primary election, is not represented. In either event, the judicial council shall select additional panel members so that there will be five from each of the two parties. A person shall no longer remain eligible to be on the panel when the person is not from one of the two parties for which the greater number of voters cast party ballots in the last preceding primary election. The requirement of being from the same party is not applicable to the replacement chairman].

Notwithstanding section 26-34, these appointments shall not be subject to senatorial confirmation. The term of the [members] commissioners shall be four years, except that the terms of the initial [members] commissioners shall be two years for two [members,] commissioners, three years for two other [members,] commissioners and four years for the chairman, as determined by the governor.

The [members of the commission] commissioners shall serve without compensation but they shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties. For [administrative] special purposes, the commission shall temporarily be [under] administratively attached to the office of the lieutenant governor[.] until June 30, 2003.”

4. By amending section 11-193 to read:

“**§11-193 Duties of the [lieutenant governor;] commission.** (a) The [principal duty of the lieutenant governor as the chief election officer is to regulate the election process. Under] duties of the commission under this subpart [the lieutenant governor’s duties] are:

- (1) To develop and adopt reporting forms required by this subpart;
- (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart, including uniform and simple methods of recordkeeping;
- (3) To preserve all reports required by this subpart for at least [five] ten years from the date of receipt;
- (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose[.];

[(b) The commission’s principal duty is to supervise campaign contributions and expenditures. Under this subpart its duties are:

- (1)] (5) To ascertain whether any candidate, committee, or party has failed to file a report required by this subpart or has filed a substantially defective or deficient report, and to notify such persons by first class mail that their failure to file or filing of a substantially defective or deficient report must be corrected and explained. The correction or explanation shall be submitted in writing to the commission not later than 4:30 p.m. on the fifth day after notification of the failure to file or deficiency has been mailed to such persons. The commission shall publish in the newspaper the names of all candidates, committees, and

parties who have failed to file a report or to correct their deficiency within the time allowed by the commission. Failure to file or correct a report when due, as required by this subpart shall result in a penalty of \$50. Failure to respond after a newspaper notification shall result in an additional penalty of \$50 for each day a report remains overdue or uncorrected. All penalties collected under this section shall be deposited in the Hawaii election campaign fund;

- (2) (6) To hold public hearings;
- (3) (7) To investigate and hold hearings for receiving evidence of any violations;
- (4) (8) To adopt a code of fair campaign practices as a part of its rules [and regulations];
- (5) (9) To establish rules pursuant to chapter 91;
- (6) (10) To request the initiation of prosecution for the violation of this subpart pursuant to section 11-229;
- (7) (11) To administer and monitor the distribution of public funds under this subpart;
- (8) (12) To suggest accounting methods for candidates, parties, and committees, as the commission may deem advisable, in connection with reports and records required by this subpart; [and
- (9) (13) To employ or contract, without regard to chapters 76 and 77 and section 103D-209(b), and, at pleasure, to dismiss persons it finds necessary for the performance of its functions, including a full-time executive director, and to fix their compensation[.];
- (14) To do random audits, field investigations, as necessary;
- (15) To file for injunctive relief when indicated; and
- (16) To censure any candidate who fails to comply with the code of fair campaign practices.

[(c)] (b) In performing the functions and duties under this subpart, the commission may subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects, to the commission office at any place in the State whether or not the subpoena is in connection with any hearing; provided that the person or documents subpoenaed shall be relevant to a matter under study or investigation by the commission. [Such] The books, papers, documents, or objects may be retained by the commission for a reasonable period of time for the purpose of examination, audit, copying, testing, and photographing. The subpoena power shall be exercised by the [chairman] chairperson of the commission, or such other person as the [chairman] chairperson may designate. Upon application of the commission, obedience to the subpoena shall be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by a circuit court."

5. By amending section 11-195 to read:

**"§11-195 Filing of reports, generally.** (a) All reports required to be filed under this subpart by a candidate or those committees directly associated with the candidate's candidacy shall be certified by the candidate. Reports required to be filed under this subpart by a party or committee which supports more than one candidate shall be certified by a person authorized to sign such reports. All reports required to be filed under this subpart shall be open for public inspection in the office of the commission.

(b) The original and one copy of all reports required under this subpart shall be filed at the office of the commission. In the case of counties having less than [200,000] two hundred thousand voters, the filing shall be accomplished by filing an

original and two copies of the required report with either the commission or the clerk of the county in which the candidate resides. The clerk shall then immediately mail the original and one copy of the report to the commission by certified mail.

(c) The commission or county clerk shall give each person filing a report a receipt stating the type of report filed and the date and time of filing.

(d) All reports filed with the county clerk's office shall be preserved by that office for [five] ten years.

(e) All reports required to be filed under this subpart shall at all times be available to the lieutenant governor.

(f) For purposes of this subpart, whenever a report is required to be filed with the commission, "filed" means received in the office of the commission or county clerk, whichever is applicable, by the date and time specified for the filing of such report[.]; except that a candidate or the committee of a candidate who is seeking election to the office of:

- (1) Governor;
- (2) Lieutenant governor;
- (3) Mayor; or
- (4) Prosecuting attorney;

shall file by electronic means in the manner prescribed by the commission."

6. By amending section 11-196<sup>1</sup> to read:

**"§11-196 Organizational report[.], candidate's committee.** (a) The organizational report shall include:

- (1) The name and address of the candidate or individual, committee, or party filing the report;
- (2) The name, address, office sought, district, and party affiliation, of each candidate or individual whom the committee or party is supporting;
- (3) The names and addresses of the campaign treasurer and deputies[.]; together with the treasurer's written acceptance of appointment;
- (4) The names and addresses of the campaign [chairman] chairperson and deputy campaign [chairman;] chairperson together with the campaign chairperson's written acceptance of appointment;
- (5) A list of all banks, safety deposit boxes, or other depositories used with each applicable account number;
- (6) The amount, name, and address, of each donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or to the ballot issue or question and the amount and date of deposit of each such contribution; and
- (7) In the case of a report by a committee or party supporting or opposing a ballot question or issue, all of the information described in paragraphs (2) to (6) and a description of the question or issue."

7. By amending section 11-198 to read:

**"§11-198 Campaign treasurer.** (a) Every committee, party, and candidate shall appoint a campaign treasurer on or before the day for filing an organizational report. Up to five deputy campaign treasurers may be appointed. A candidate may appoint [himself] oneself as campaign treasurer.

- (b) A campaign treasurer may be removed at any time. In case of death, resignation, or removal of the campaign treasurer, the committee, party, or candidate shall promptly appoint a successor. During the period the office of campaign treasurer is vacant, the candidate, committee [chair-

man,] chairperson, or party [chairman,] chairperson, whichever is applicable, shall serve as campaign treasurer.

(c) Only the campaign treasurer and deputy campaign treasurers shall be authorized to receive contributions or make expenditures on behalf of the appointing candidate, committee, or party [appointing him].

(d) A candidate may appoint on a fee or voluntary basis a person other than an officer or treasurer to specifically prepare and file reports with the campaign spending commission."

8. By amending subsection (a) of section 11-200 to read:

"(a) A candidate, campaign treasurer, or candidate's committee shall not receive any contributions or receive or make any transfer of money or anything of value:

- (1) For any purpose other than that directly related:
  - (A) In the case of the candidate, to the candidate's own campaign; or
  - (B) In the case of a campaign treasurer or candidate's committee, to the campaign of the candidate, question, or issue with which they are directly associated; or
- (2) To support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated; or
- (3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated.

Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate's committee, as a contribution, may purchase from its campaign fund not more than two tickets for each [fundraiser as defined in section 11-203,] event held by another candidate, committee, or party[.] whether or not the event constitutes a fundraiser as defined in section 11-203."

9. By amending section 11-203 to read:

**"§11-203 Fundraiser and fundraising activities.** (a) As used in this [subpart,] section, "fundraiser" means any function held for the benefit of a person [which] that is intended or designed, directly or indirectly, to raise funds for political purposes for which the [total] price [of] or suggested contribution for attending the function is more than \$25 per person.

(b) There shall be no more than one fundraiser held for a person prior to a general or special election in which that person is either elected or defeated.

Within six months after a general[, special general,] or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fundraiser.

(c) No fundraiser or fundraising activity shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair and the method thereof.

(d) Fundraisers sponsored by a candidate for a statewide office are exempt from the \$25 limit of subsection (a) and the restrictions of subsection (b), and fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

(e) The following expenses incident to a fundraiser and to all other political fundraising activities held for the benefit of a candidate [for which there is a charge

for attending or participating in the fundraiser or fundraising activity] shall not be considered expenditures within the limitations set by section 11-209:

- (1) The cost of food and beverages consumed at the function;
- (2) Rent and utilities for the premises where the function is held;
- (3) The amount paid for guest speakers and entertainment;
- (4) Printing and postage related to a function; and
- (5) All other direct costs incurred in solicitation of the fundraiser, or fundraising activity.’’

10. By amending section 11-204 to read:

**“§11-204 Campaign contributions; limits as to persons.** (a) No person or any other entity shall make contributions to [a candidate or candidate’s committee in an aggregate amount greater than \$2,000 in any primary, special primary, special, or general election.]:

- (1) A candidate seeking nomination or election to a two-year office or to the candidate’s committee in an aggregate amount greater than \$2,000 during an election period; and
- (2) A candidate seeking nomination or election to a four-year statewide office or to the candidate’s committee in an aggregate amount greater than \$6,000 during an election period; and
- (3) A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate’s committee in an aggregate amount greater than \$4,000 during an election period.

These limits shall not apply to a loan made to a candidate by a financial institution in the ordinary course of business.

(b) No person or any other entity shall make contributions to a noncandidate committee in an aggregate amount greater than \$1,000 in an election.

[(b)] (c) A candidate [or the candidate’s immediate family] in making a contribution to the candidate’s campaign shall be exempt from the above limitation, but shall be limited in the aggregate to \$50,000 in any election [year.] period. The aggregate amount of \$50,000 shall include any loans made for campaign purposes to the candidate from the candidate’s immediate family.

[(c)] (d) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor’s parent or guardian.

[(d)] (e) Any candidate or candidate’s committee who [knowingly] receives in the aggregate more than [\$2,000] the applicable limits set forth in this section in any primary, [special primary,] initial special, special, or general election from a person, shall be required to [return] transfer an amount equal to any excess over [\$2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund.] the limits established in this section to the Hawaii election campaign fund within thirty days of receipt by a candidate or candidate’s committee, and in any event, no later than thirty days upon the receipt by a candidate or candidate’s committee of notification from the commission. A candidate or candidate’s committee who complies with [the provisions of] this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.

[(e)] (f) All payments made by a person whose contributions or expenditure activity is financed, maintained, or controlled by any corporation, labor organization, association, political party, or any other person or committee, including any parent, subsidiary, branch, division, department, or local unit of the corporation, labor organization, association, political party, or any other person, or by any group of those persons shall be considered to be made by a single person.

[(f)] (g) A contribution made by two or more corporations shall be treated as one person when such corporations:

- (1) Share the majority of members of their boards of directors;
- (2) Share two or more corporate officers;
- (3) Are owned or controlled by the same majority shareholder or shareholders; or
- (4) Are in a parent-subsidiary relationship.

[(g)] (h) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

[(h)] (i) No committee which supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee.

(j) No contributions may be made to a noncandidate committee from a corporation or other organization unless the noncandidate committee has been in existence continuously, as shown on the records of the campaign spending commission, for at least twelve months prior to the next primary election.

(k) No contributions or expenditures shall be made to or on behalf of a candidate or committee by a foreign corporation, including a domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where administrative control is retained by the foreign corporation, and in the same manner prohibited under 2 U.S.C. section 441e and 11 CFR 110.4(a) and 110.9(a), as amended. No foreign-owned domestic corporation shall make contributions where:

- (1) Foreign national individuals participate in election-related activities such as decisions concerning the making of contributions or the administration of a political committee; or
- (2) The contribution funds are not domestically-derived.

(l) No person or any other entity shall make contributions to a political party in an aggregate amount greater than \$50,000 in any election year."

11. By amending subsection (a) of section 11-205 to read:

“(a) No political party shall make contributions to a candidate in any calendar year in an aggregate amount greater than the following [percentages of the expenditure limit] amounts for each respective office:

- (1) For the office of governor—[twenty per cent of the expenditure limit;] \$50,000;
- (2) For the office of lieutenant governor—[twenty per cent of the expenditure limit;] \$40,000;
- (3) For the partisan offices of mayor and prosecuting attorney—[twenty per cent of the expenditure limit;] \$25,000;
- (4) For the offices of state senator and partisan county council member—[thirty per cent of the expenditure limit;] \$20,000; and
- (5) For the office of state representative—[forty per cent of the expenditure limit; and] \$15,000.
- [(6) For the offices of the board of education and all other offices—forty per cent of the expenditure limit.]”

12. By amending subsection (a) of section 11-208 to read:

“(a) Any candidate may voluntarily agree to limit the candidate’s campaign expenditures and those of the candidate’s committee or committees and the candi-

date's party in the candidate's behalf by filing an affidavit with the campaign spending commission[.]; provided that a candidate may withdraw the candidate's affidavit no later than thirty days prior to an election."

13. By amending section 11-209 to read:

**"§11-209 Campaign expenditures; limits as to amounts.** (a) From January 1 of the year of [a] any primary, [special primary,] special, or general election [through the day of the special or general election], the total expenditures for candidates who voluntarily agree to limit their campaign expenditures[,] for each election, inclusive of all expenditures made or authorized by the candidate alone and all campaign treasurers and committees in the candidate's behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote in each respective voting district:

- (1) For the office of governor—[\$1.25;] \$2.50;
- (2) For the office of lieutenant governor—[70 cents;] \$1.40;
- (3) For the office of mayor—[\$1;] \$2.00;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney—[70 cents;] \$1.40; and
- (5) For the offices of the board of education and all other offices—[10] 20 cents.

[b) An additional ten per cent increase shall be added to the base amounts allowable under subsection (a) and compounded annually starting in 1979 and each year thereafter.

(c) (b) A candidate or committee who has voluntarily agreed to the expenditure limits in this section and who exceeds [the] their respective expenditure [limitations set for any respective office] limits shall pay the full filing fee and shall notify all opponents, the chief election officer, all contributors, and the commission by telephone and in writing the day the expenditure limits are exceeded. Notification to contributors shall include an announcement that tax deductions based on their contributions are no longer available."

14. By amending section 11-212 to read:

**"§11-212 Preliminary reports.** (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a preliminary report with the commission or appropriate county clerk's office, on forms provided by the commission no later than 4:30 p.m. on the twenty-fifth and tenth calendar day prior to each primary and initial special election, and the tenth calendar day prior to [each] a special or general election. [The] Each report shall be certified pursuant to section 11-195 and shall contain the following information which is current through the [fifteenth calendar day prior to the election:] fifth calendar day prior to the filing of a preliminary report:

- (1) The aggregate sum of all contributions and other campaign receipts received;
- (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100 during [the] an election period [commencing on January 1 of the year preceding the election in the case of primary, special primary, and special elections] which has not previously been reported ;
- (3) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an



aggregate of more than \$1,000 during an election period which has not previously been reported;

- [(3)] (4) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and

- [(4)] (5) A current statement of the balance on hand or deficit.

(b) Notwithstanding this section, a candidate, party, or committee whose aggregate contributions or expenditures for the reporting period total [\$500] \$2,000 or less may file a short form report with the commission or appropriate county clerk's office in lieu of the reports required by this section and section 11-213."

15. By amending subsection (a) of section 11-213 to read:

"(a) Primary and initial special [primary.] election. Each candidate whether or not successful in a primary or initial special [primary] election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the [twentieth] thirtieth calendar day after a primary or initial special [primary] election. The report shall include:

- (1) A statement of the total contributions and campaign receipts received;  
(2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an aggregate of more than \$100 [commencing January 1 of the preceding year or commencing on the cut-off date for the last preliminary report filed with the commission;] during an election period which has not previously been reported;

- (3) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of more than \$1,000 during an election period which has not previously been reported;

- [(3)] (4) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and

- [(4)] (5) The cash balance and a statement of surplus or deficit."

16. By amending subsection (e) of section 11-213 to read:

"(e) Short form reporting. A candidate, party, or committee who receives no contributions, makes no expenditures, or has a deficit or surplus of [\$250] \$1,000 or less in any prescribed reporting period shall nevertheless be required to file preliminary, final, and supplemental reports on the respective dates pursuant to this subpart. Such reports may be filed on a short form as provided by the commission."

17. By amending subsection (d) of section 11-214 to read:

"(d) This section shall not apply to [elected];

- (1) Elected officials [or candidates];

- (2) Candidates who failed to be nominated or elected[,] and who do not become a candidate for nomination or election to office within four years thereafter; or

- (3) Elected officials who resign their office before the end of their term or who do not file to become a candidate for reelection within four years after their resignation or the end of the term for which they did not seek reelection respectively."

18. By amending section 11-215 to read:

**“§11-215 Advertising.** (a) To the extent authorized by law, [All] all advertisements authorized by a candidate or a candidate’s committee shall contain the name and address of the candidate, committee, or party[, or person] paying for the advertisement. If an advertisement is not authorized by a candidate or a candidate’s committee, the advertisement shall contain the name and address of the person paying for the advertisement.

(b) In addition to subsection (a) [above], and to the extent authorized by law, no person shall cause or submit any advertisement in support of a candidate or against a candidate’s opponent, to be published, broadcast, televised, or otherwise circulated and distributed except under the following conditions:

(1) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated with the approval and authority of the candidate, provided that in the event that the literature or advertisement is paid for by a candidate or committee directly associated with a candidate, the notice of approval and authority need not be included; or

(2) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated without the approval and authority of the candidate.

[(3)] (c) The penalty for violating this section shall be [not less than] a fine not to exceed \$25 for each [day the] advertisement that lacks the required disclaimer and no more than [\$2,000] \$5,000 aggregate.”

19. By amending section 11-216 to read:

**“§11-216 Complaints, investigation, and notice[.]; determination.** (a) Complaints of violations of this subpart against any person shall be filed with the commission. The complaint shall be in writing and shall be signed under oath by the complainant. Complaints initiated by the commission shall be in writing and signed by the [chairman.] executive director.

(b) The commission shall give notice of receipt of the complaint together with a copy of the complaint to the person cited and shall afford the person an opportunity to explain or otherwise respond to the complaint[.] at a meeting promptly noticed by the commission and conducted under chapter 92. The commission [may also cause an investigation to be made of the complaint.] shall promptly determine, without regard to chapter 91, to summarily dismiss the complaint, cause further investigation, make a preliminary determination, or refer the complaint to an appropriate prosecuting authority for prosecution under section 11-229.

(c) Upon hearing the response of the person cited, if the person elects to respond to the complaint, and upon completion of any investigation, the commission [shall] may make a prompt preliminary determination as to whether probable cause exists that a violation of this subpart has been committed. In lieu of an administrative determination that a violation of this section has been committed, the commission may refer the complaint to the attorney general or county prosecutor pursuant to section 11-229 at any time it believes that the person cited may have intentionally, knowingly, or recklessly committed a violation.

(d) If the commission makes a preliminary determination that there is probable cause to believe that a violation of this subpart has been committed, its preliminary determination with findings of fact and conclusions of law shall be served upon the person cited by certified mail. The person shall be afforded an opportunity to contest the commission’s preliminary determination of probable cause by making a request for a contested hearing under chapter 91 within twenty

days of receipt of the preliminary determination. Failure to request a contested hearing will result in the commission's preliminary determination being deemed a final determination of violation.

- (1) Any person who appears before the commission shall have all of the rights, privileges, and responsibilities of a witness appearing before the courts of this State. All witnesses summoned before the commission shall receive reimbursements as paid in like circumstances in the courts of this State. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on the person's own behalf or file a written statement for incorporation into the record of the proceeding.
- (2) The commission shall cause a record to be made of all proceedings pursuant to this subsection. [At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members whether probable cause exists that a violation has been committed.] Any hearing conducted by the commission to contest the preliminary determination of probable cause shall be conducted pursuant to chapter 91 and any rules adopted by the commission. All contested hearings shall be heard before the commission or a duly designated hearings officer.
- (3) All parties shall be afforded full opportunity to present evidence and argument on all issues involved. The commission or hearings officer, if there is no dispute as to the facts involved in a particular matter, may permit the parties to proceed by memoranda of law in lieu of a hearing unless the procedure would unduly burden any party or is otherwise not conducive to the ends of justice. The commission shall not be bound by strict rules of evidence when conducting a hearing to determine whether a violation of this subpart has occurred, and the degree or quantum of proof required shall be a preponderance of the evidence.
- (4) A hearings officer shall render a recommended decision for the commission's consideration and any party adversely affected by the decision may file written exceptions with the commission within fifteen days after receipt of a copy of the decision by certified mail.
- (5) The commission, as expeditiously as possible, after the close of the hearing, shall issue its final determination of violation together with separate findings of fact and conclusions of law regarding whether a violation of this subpart has been committed.

[(d)] (e) [Until a determination of probable cause is made by the commission, all proceedings, including the filing of the complaint, investigation, and hearing shall be confidential unless the person complained of requests an open hearing.] In the event the commission [determines] makes a final determination that [probable cause] a violation of this subpart does not exist, the complaint shall be dismissed [and the entire record of the proceedings shall be kept confidential at the option of the person complained of].

(e) The commission shall give written notice to the person complained of and to the complainant as to whether probable cause of a violation exists or whether the complaint has been dismissed.

(f) In the event a determination is made that probable cause of a wilful violation exists, the commission shall promptly advise the lieutenant governor of its findings and also the applicable clerk of the state legislature in the case of a state office, or the clerk of the respective county legislative body in the case of a county

office. In the event a determination is made that probable cause of an unintentional violation exists, the commission shall issue an order that may require the violator to:

- (1) Temporarily cease and desist violation of this subpart; or
- (2) File any report, statement, or other information as required by this subpart.

(g) The commission may only initiate prosecution as provided in section 11-229 when it finds that probable cause of a wilful violation exists].

(f) If the commission renders a final determination of violation, its written decision with findings of fact and conclusions of law may also provide, without limitation the following orders:

- (1) The return of any contribution;
- (2) The reimbursement of any unauthorized expenditure;
- (3) The payment of any administrative fine payable to the Hawaii election campaign fund;
- (4) Cease and desist violation of this subpart; or
- (5) File any report, statement, or other information as required by this subpart.

(g) The commission may waive further proceedings because of action the person cited or respondent takes to remedy or correct the alleged violation, including the payment of any administrative fine. The commission shall make the remedial or corrective action taken by the respondent, the commission's decision in light of the action to waive further proceedings, and the commission's justification for its decision, a part of the public record."

20. By amending section 11-217 to read:

**"§11-217 Hawaii election campaign fund; creation.** The Hawaii election campaign fund is created as a trust fund within the state treasury. The fund shall consist of all moneys collected from persons who have designated a portion of their income tax liability to the fund as provided in section 235-102.5, any general fund revenues appropriated, as well as all other moneys collected pursuant to this subpart. Payment to each candidate from the fund shall be by the comptroller in the manner prescribed in section 11-222."

21. By amending section 11-218 to read:

**"§11-218 Candidate funding; amounts available.** (a) The maximum amount of public funds available to a candidate for the office of governor, lieutenant governor, or mayor in any election year shall not exceed one-fifth or twenty per cent of the total expenditure limit established for each office above pursuant to section 11-209.

(b) For the office of state senator, state representative, county council member, and prosecuting attorney, [board of education, and all other offices,] the maximum amount of public funds available to a candidate in any election year shall [not exceed \$100 in any election year.] be thirty per cent of the total expenditure limit established for each office listed in this subsection pursuant to section 11-209; provided that the candidate received at least ten per cent of the votes cast in the respective election for the office which the candidate is seeking.

(c) For the board of education and all other offices, the maximum amount of public funds available to a candidate shall not exceed \$100 in any election year."

22. By amending section 11-219 to read:

**“§11-219 Qualifying campaign contributions; amounts.** As a condition of receiving public funds for a primary, special primary, or general election, a candidate shall have filed an affidavit with the commission pursuant to section 11-208 to voluntarily limit the candidate’s campaign expenditures and shall be in receipt of the following sum of qualifying campaign contributions for the candidate’s respective office[:] for each election:

- (1) For the office of governor—qualifying contributions which in the aggregate exceed [\$25,000;] \$75,000;
- (2) For the office of lieutenant governor—qualifying contributions which in the aggregate exceed [\$20,000;] \$50,000;
- (3) For the office of mayor and prosecuting attorney in a county having more than [100,000] one hundred thousand registered voters—qualifying contributions which in the aggregate exceed [\$15,000;] \$40,000;
- (4) For the office of mayor and prosecuting attorney in a county having less than [100,000] one hundred thousand registered voters—qualifying contributions which in the aggregate exceed [\$5,000; and] \$10,000;
- (5) For [all other offices—qualifying contributions which in the aggregate exceed \$500.] the office of county council—qualifying contributions which in the aggregate exceed \$5,000;
- (6) For the office of the state senator—qualifying contributions which in the aggregate exceed \$2,500;
- (7) For the office of state house of representative—qualifying contributions which in the aggregate exceed \$1,500; and
- (8) For all other offices, qualifying contributions which in the aggregate exceed \$500.”

23. By amending section 11-221 to read:

**“§11-221 Entitlement to payments.** [(a)] Every candidate [for the office of governor, lieutenant governor, or mayor] who is eligible to receive public funds pursuant to section 11-220 is entitled to payments pursuant to section 11-217 in an amount equal to each qualifying contribution received by [such] that candidate or candidate committee during the matching payment period involved.

[(b)] The total amount of public funds for a primary, special primary, or general election to which a candidate for the office of governor, lieutenant governor, or mayor is entitled to receive under subsection (a) shall not exceed fifty per cent of the maximum amount of public funds available to the candidate for the candidate’s respective office pursuant to section 11-218.

(c) The maximum amount of public funds available to candidates for the office of state senator, state representative, county council member, prosecuting attorney, board of education, and all other offices shall not exceed \$50 for any primary, special primary, or general election.

(d) Each candidate who qualified for the maximum amount of public funding in any primary or special primary election and who is a candidate for a subsequent general election shall upon application with the commission be entitled to receive up to fifty per cent of the balance of public funds available to such candidate.]

A candidate is entitled to receive up to fifty per cent of the eligible amount upon initial certification by the commission without regard to the ten per cent votes cast requirement under section 11-218. Upon meeting the votes cast requirements under section 11-218 and upon certification by the commission, the candidate is entitled to receive an additional amount up to fifty per cent of the eligible amount.”

24. By amending subsection (a) of section 11-222 to read:

“(a) Application forms for public funds shall be adopted by the commission and shall provide for a sworn statement by the candidate that the candidate has established eligibility under section 11-220 to receive payments under section 11-217. Each application shall be accompanied by a qualifying campaign contribution statement or statements, and shall be filed with the commission[.] no later than sixty days after the general election. Upon approval by the commission of the application and qualifying contribution statement, the commission shall direct the comptroller to distribute matching public funds up to [a total of fifty per cent of] the maximum of the amount of public funds to which the candidate is entitled [for either a primary or special primary, or general election].

Public funds shall be distributed by the comptroller to each eligible candidate within ten days from the date of the candidate’s initial application with the commission.”

25. By amending subsection (a) of section 11-223 to read:

“(a) Each candidate who accepts public campaign funds under this subpart shall be required to abide by the campaign spending limits for the candidate’s respective office as set forth in section 11-209. Any candidate who exceeds the spending limits for the candidate’s respective office as set forth in section 11-209 shall return all of the public campaign funds the candidate has received to the Hawaii election campaign fund[.]; provided that any candidate who exceeds the limits by no more than one per cent shall return twenty-five per cent of the fund.”

26. By amending subsection (a) of section 11-227 to read:

“(a) Forty-five days before each primary, special primary, special, or general election, and at such other times as may be appropriate, the commission may publish public notices in the newspaper as well as other media to communicate to the public the following:

- (1) A [candidate’s failure to sign] candidate who has signed an affidavit pursuant to section 11-208 to abide by the expenditure limits for the candidate’s respective office as imposed by this subpart;
- (2) A candidate who has filed an affidavit to abide by spending limits, but who has exceeded the expenditure limits pursuant to section 11-209;
- (3) A candidate who has failed to file a report required under this subpart, or who has failed to correct a deficient report after notice of such deficiency or failure to file has been mailed to the candidate pursuant to section [11-193(b)(1);] 11-193(a)(5); and
- (4) Any flagrant violation of any other provision of this subpart.”

27. By amending section 11-228 to read:

“**§11-228 [Penalties;] Administrative fines; relief.** (a) [Any] In the performance of its required duties, the commission may render a decision or issue an order affecting any person violating any provision of this subpart other than in [section 11-193(b)(1),] sections 11-193(a)(5) and 11-215, that shall [be punishable] provide for the assessment of an administrative fine in the manner prescribed as follows:

- (1) If a natural person, [the person shall be guilty of a petty misdemeanor and shall be subject to the penalties specified therefor;] an amount not to exceed \$1,000 for each occurrence or an amount equivalent to three times the amount of an unlawful contribution or expenditure, whichever is greater; or

- (2) If a corporation, organization, association, or labor union, it shall be punished by a fine not exceeding \$1,000[.] for each occurrence; and
- (3) Whenever a corporation, organization, association, or labor union violates this subpart, the violation shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, association, or labor union, who have knowingly authorized, ordered, or done any of the acts constituting the violation.

(b) Any order for the assessment of an administrative fine may not be issued against a person without providing the person written notice and an opportunity to be heard at a hearing conducted under chapter 91. A person may waive these rights by written stipulation or consent. If an administrative fine is imposed upon a candidate, the commission may order that the fine, or any portion, be paid from the candidate's personal funds.

(c) If an order issued by the commission is not complied with by the person to whom it is directed, the first circuit court, upon application of the commission, shall issue an order requiring the person to comply with the commission's order. Failure to obey such a court order shall be punished as contempt.

(d) Any administrative fine collected by the commission shall be deposited in the Hawaii election campaign fund.

[(b)] (e) Any person or the commission may sue for injunctive relief to compel compliance with this subpart.

[(c)] (f) The provisions of this section shall not be construed to prohibit prosecution under any appropriate provision of the Hawaii Penal Code[, including, but not limited to, sections 708-852 and 708-853 (forgery); section 708-855 (criminal simulation); section 708-856 (obtaining signature by deception); section 708-872 (falsifying business records); and section 708-874 (misapplication of entrusted property).] or section 11-229."

28. By amending section 11-229 to read:

**"§11-229 [Prosecution.] Criminal prosecution.** (a) Any individual who knowingly, intentionally, or recklessly violates any provision of this subpart, other than sections 11-193(a)(5) and 11-215, shall be guilty of a misdemeanor. A person who is convicted under this section shall be disqualified from holding elective public office for a period of four years from the date of conviction.

(b) For purposes of prosecution for violation of this subpart, the offices of the attorney general and the prosecuting attorney of the respective counties shall be deemed to have concurrent jurisdiction to be exercised as follows:

- (1) Prosecution shall commence with a written request from the commission or upon the issuance of an order of the court; provided that prosecution may commence prior to any proceeding initiated by the commission or final determination;
- (2) In the case of state offices, parties, or issues, the attorney general or the prosecuting attorney for the city and county of Honolulu shall prosecute any violation; and
- (3) In the case of all other offices, parties, or issues, the attorney general or the prosecuting attorney for the respective county shall prosecute any violation.

In the commission's choice of prosecuting agency, it shall be guided by whether there will be any conflicting interest between the agency and its appointive authority.

[(b)] (c) The court shall give priority to the expeditious processing of suits under this section.

[(c)] (d) Prosecution for violation of any provision of this subpart shall not be commenced after [two] five years have elapsed from the date of the violation or date of filing of the report covering the period in which the violation occurred, whichever is later.”

SECTION 3. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

- “(g) In computing taxable income there shall be allowed as a deduction:
- (1) Political contributions by any taxpayer not in excess of [\$100] \$250 in any year; provided that such contributions are made to a central or county committee of a political party whose candidates shall have qualified by law to be voted for at the immediately previous general election; or
  - (2) Political contributions by any individual taxpayer in an aggregate amount not to exceed [\$500] \$1,000 in any year; provided that such contributions are made to candidates as defined in section [11-191(3),] 11-191, who have agreed to abide by the campaign expenditure limits as set forth in section 11-209; and provided further that not more than [\$100] \$250 of an individual’s total contribution to any single candidate shall be deductible for purposes of this section.”

SECTION 4. There is appropriated out of the Hawaii election campaign fund of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the campaign spending commission to improve its computer network, including the acquisition of hardware and software, and the hiring of consultants as may be necessary. The sum appropriated shall be expended by the campaign spending commission for the purposes of this Act.

SECTION 5. There is appropriated out of the Hawaii election campaign fund of the State of Hawaii the sum of \$70,000, or so much thereof as may be necessary for fiscal year 1995–1996, for one additional investigator for the campaign spending commission. The sum appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the validity of the provision to other persons and circumstances shall not be affected thereby and further, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 8. This Act shall take effect on July 1, 1995; provided that section 3 shall apply to taxable years beginning after December 31, 1994.

(Approved June 29, 1995.)

#### Notes

1. Subsection (b) missing.

2. Edited pursuant to HRS §23G-16.5.



## ACT 11

H.B. NO. 7-S

A Bill for an Act Relating to State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to improve government operations by:

- (1) Creating an interagency federal revenue maximization revolving fund to be used to aggressively pursue, collect, and distribute additional federal fund reimbursements;
- (2) Requiring that the expenditure of all revolving fund proceeds as well as funds established to provide interdepartmental services shall be made by appropriation or allotment, unless specifically exempted;
- (3) Establishing a financial institution examiners' revolving fund for the payment of various personnel and administrative expenses incurred during the course of a financial institution examination; and
- (4) Exempting certain funds from the requirements to pay administrative expenses and central services assessments.

SECTION 2. Chapter 29, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§29- Interagency federal revenue maximization revolving fund. (a)**

There is established in the state treasury, an interagency federal revenue maximization revolving fund into which shall be deposited all proceeds collected from the federal government for prior periods' reimbursable costs not previously claimed by the State for reimbursement by federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services, education, and health. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims or appropriated by the governor, and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b).

(b) Notwithstanding any other law to the contrary, the comptroller, by contract, may retain the services of certified public accountants and other consultants to pursue and collect federal fund reimbursements, and perform other duties necessary to administer this section. At the option of the comptroller, consultants retained by contract under this subsection may be compensated on:

- (1) A fixed-price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) Through a contingent fee arrangement specified in the contract.

Such compensation shall be payable out of all sums the consultant recovers for the State.

(c) All unobligated, unencumbered, or unexpended funds remaining in the interagency federal revenue maximization revolving fund as of June 30, 1999, shall revert to the general fund of the State. Upon final disbursement of remaining balances to the general fund on June 30, 1999, the interagency federal revenue maximization revolving fund shall be terminated.

(d) No later than twenty days prior to the convening of each regular session of the legislature, the comptroller shall submit to the legislature a report including the following information:

- (1) Itemized amounts of all federal reimbursements;
- (2) Description and amounts of all expenses incurred by the fund;
- (3) Method of compensation and amounts of compensation for all certified public accountants and other consultants retained by the comptroller to pursue and collect federal fund reimbursements and perform other duties necessary to administer this section;
- (4) Method of determining allocation of funds;
- (5) Amounts allocated by the comptroller; and
- (6) Fund balances.”

SECTION 3. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§201E- Expenditures of revolving funds under the corporation exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any revolving fund administered by the corporation may be made by the corporation without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any revolving fund administered by the corporation to be reappropriated annually.”

SECTION 4. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§206E- Expenditures of revolving funds under the authority exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any revolving fund administered by the authority may be made by the authority without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any revolving fund administered by the authority to be reappropriated annually.”

SECTION 5. Chapter 412, Article 2, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§412:2- Financial institution examiners’ revolving fund and appointment of examiners.** (a) There is established in the state treasury a separate fund designated as the financial institution examiners’ revolving fund.

(b) The commissioner may appoint financial institution examiners, not subject to chapters 76 and 77, who shall examine the affairs, transactions, accounts, records, documents, and assets of financial institutions. The commissioner also may appoint administrative support personnel, not subject to chapters 76 and 77, who shall assist and support the examiners. The commissioner may pay the salaries of the financial institution examiners and administrative support personnel from the financial institution examiners revolving fund.

(c) The fund also may be used to reimburse financial institution examiners and administrative support personnel for the following expenses necessarily incurred on account of an examination and the education and training of financial institution examiners and administrative support personnel:

- (1) Actual travel expenses in amounts customary for these expenses and approved by the commissioner;
  - (2) A reasonable living expense allowance at a rate customary for these expenses and approved by the commissioner; and
  - (3) Any fee or tuition necessary to attend educational and training conferences, workshops, seminars, and any similar events of this nature.
- (d) The fund also may be used for other expenses relating to examinations of financial institutions and administrative costs, including personnel costs of the division and costs incurred by supporting offices and divisions.
- (e) All persons receiving any reimbursement or compensation from the financial institution examiners' revolving fund shall submit to the commissioner for approval a detailed account of all expenses and compensation necessarily incurred. Persons shall not receive or accept any additional compensation on account of an examination. In the case of an examination, any reimbursement or compensation made by the fund and approved by the commissioner shall be charged to the financial institution being examined by the commissioner and all receipts shall be credited to the fund.
- (f) Moneys in the financial institution examiners' revolving fund shall not revert to the general fund.
- (g) Before August 16, 1995, and thereafter before July 2, 1996, each financial institution shall pay a sum of \$250 plus \$50 for each office and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners' revolving fund.
- (h) Before July 2, 1997, and each year thereafter before July 2, each financial institution shall pay a sum of \$500 plus \$100 for each office and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners' revolving fund."

SECTION 6. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**"§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school fund under section 298-3.5;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund;
- (6) Special [fund] funds established by section 206E-6;
- [[ (7) ] Housing loan program revenue bond special fund[, housing];
- (8) Housing project bond special fund;
- [[ (8) ] (9) Aloha Tower fund created by section 206J-17; [and]
- [[ (9) ] (10) [The spouse] Spouse and child abuse special account under section 346-7.5; [the spouse]
- (11) Spouse and child abuse special account under section 601-3.6[.];
- (12) Funds of the employees' retirement system created by section 88-109;
- (13) Unemployment compensation fund established under section 383-121;  
and

(14) Hawaii hurricane relief fund established under chapter 431P, shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 7. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

**“§36-30 Special fund reimbursements for departmental administrative expenses.** (a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special summer school fund under section 298-3.5;
- (3) School cafeteria special funds of the community colleges, and the department of education;
- (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special [fund] funds established by section 206E-6;
- [[ ](7)[ ] Aloha Tower fund created by section 206J-17; [and]
- [[ ](8)[ ] Spouse and child abuse special account under section 346-7.5; [the spouse]
- (9) Spouse and child abuse special account under section 601-3.6[.];
- (10) Funds of the employees’ retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P; and
- (13) Convention center capital and operations special fund established under section 206X-10.5,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.

(b) Administrative expenses shall include:

- (1) Salaries;
- (2) Maintenance of buildings and grounds;
- (3) Utilities; and
- (4) General office expenses.

(c) The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided that in determining the amount to be charged to each special fund for its pro rata share:

- (1) Credit shall be given for any administrative expenses paid from the special fund concerned; and
- (2) Other adjustments shall be made as necessary to achieve an equitable apportionment.

(d) The director of finance may determine the amount to be charged to each special fund and may cause the amounts to be transferred to the general [funds] fund as reimbursements.

(e) No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all departmental administrative expenses assessments made during the preceding fiscal year."

SECTION 8. Section 37-40, Hawaii Revised Statutes, is amended to read as follows:

**"§37-40 Exceptions; [revolving and] trust funds.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from [revolving and] trust funds [and funds established to provide services rendered by any state department or establishment to other state departments or establishments or to any political subdivision of the State,] may be made by any department or establishment without appropriation or allotment; provided that no expenditure shall be made from and no obligation shall be incurred against any [revolving fund or] trust fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require [that revolving funds, trust funds or any refund account] any trust fund established pursuant to law be reappropriated annually."

SECTION 9. Section 412:2-105, Hawaii Revised Statutes, is amended to read as follows:

**"§412:2-105 Fees and assessments.** (a) The commissioner may charge an examination fee based upon the cost per hour per examiner for all financial institutions examined by the commissioner or the commissioner's staff. [The] Effective July 1, 1995, the hourly fee shall be [established by the commissioner by rule] \$40. After July 1, 1996, the commissioner may establish, increase, decrease, or repeal the hourly fee when necessary pursuant to rules adopted in accordance with chapter 91.

(b) In addition to the examination fee, the commissioner [[may]] charge any financial institution examined or investigated by the commissioner or the commissioner's staff, additional amounts for travel, per diem, mileage and other reasonable expenses incurred in connection with the examination.

(c) The commissioner shall bill the affected financial institution for examination fees and expenses as soon as feasible after the close of [such] the examination or investigation. The affected financial institution shall pay the division of financial institutions within thirty days following the billing. [Unless otherwise provided by statute, all] All such payments shall be deposited to the [general fund of the State.] financial institution examiners' revolving fund. All disputes relating to [such] these billings between the affected financial institution and the commissioner shall be resolved in accordance with the procedures for contested cases under chapter 91.

(d) The commissioner [may], by rules adopted in accordance with chapter 91, may set reasonable fee amounts to be collected by the division in connection with its regulatory functions, including, without limitation, any fees for renewals, applications, licenses, and charters. Unless otherwise provided by statute, all such fees shall be deposited into the [general fund of the State.] financial institution examiners' revolving fund.

(e) A Hawaii financial institution [which] that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 per day for each day it is in violation of this section, which fine, together with the amount due under [foregoing provisions of] this section, may be recovered

pursuant to the provisions of section 412:2-611[,] and shall be deposited to the financial institution examiners' revolving fund.”

SECTION 10. Act 200, Session Laws of Hawaii 1994, is amended by amending section 12 to read as follows:

“SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$900,000, or so much thereof as may be necessary for fiscal year 1994–1995[,] and fiscal year 1995–1996, for the purposes of this Act; provided that no funds shall be made available under this Act unless the Office of Hawaiian Affairs provides a dollar-for-dollar match of funds which are derived solely from revenues generated under the authority of section 5(f) of the Admission Act.

The sums appropriated or authorized shall be expended by the department of accounting and general services for the purposes of this Act.

The department of accounting and general services may hire staff necessary to accomplish the purposes of this Act. Such persons shall be exempt from chapters 76, 77, and 89, Hawaii Revised Statutes.”

SECTION 11. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$425,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$425,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of human services for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 12. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$200,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of education for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 13. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$425,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$425,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of health for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums authorized shall be expended by the department of health for the purposes of this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 15. This Act shall take effect on July 1, 1995; provided that:

- (1) Section 10 shall take effect on June 29, 1995;
- (2) Sections 3, 4, and 8 shall take effect on July 1, 1996; and
- (3) Section 2 shall be repealed on June 30, 1999.

(Approved June 29, 1995.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 12

H.B. NO. 8-S

A Bill for an Act Relating to Occupational Safety and Health Training and Assistance Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 130, Session Laws of Hawaii 1994, is amended by amending section 2 to read as follows:

“SECTION 2. Section 396-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Education and training.

- (1) The department may disseminate, through exhibitions, videos, lectures, pamphlets, and any other method of publicity, information to employers, employees, and the general public regarding the causes and prevention of industrial accidents, injuries, and illnesses;
- (2) Where appropriate, the department shall undertake programs in training and consultation with employers and employees as a means of encouraging voluntary compliance with occupational safety and health standards and rules; and
- (3) There is established a special fund to be known as the occupational safety and health training and assistance fund [consisting of \$200,000] into which shall be deposited: in each fiscal year, up to \$500,000 in fines, interest, and penalties collected pursuant to section 396-10[, to]; interest earned on any moneys in the fund; and all moneys received for the fund from any source. The moneys in the fund may be used to carry out the purposes of this subsection. The director of finance shall be the custodian of the fund, invest its moneys in accordance with applicable laws and rules, and disburse the moneys in the fund in accordance with instructions from the director of labor and industrial relations and section 36-27. All moneys earned from investments shall be deposited in the fund. The director of finance shall be liable on the director's official bond for the faithful performance of all duties in connection with the fund. The fund may be used for:
  - (A) Occupational safety and health training programs;
  - (B) Department-sponsored safety and health conferences;
  - (C) Additional state consultants (occupational safety and health advisors) to assist employers, unions, and employees; and
  - (D) Preparation of annual reports pursuant to section 396-17.

The director of labor and industrial relations shall submit annual reports to the legislature on the status of the fund, including expenditures and program results, not less than twenty days prior to the convening of each regular session.”

SECTION 2. Act 130, Session Laws of Hawaii 1994, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 1994; provided that:

- (1) [Section] Sections 1 and 2 shall be repealed on July 1, [1996;] 1999;

- (2) On July 1, [1996,] 1999, section [394-4,] 396-4, Hawaii Revised Statutes, is reenacted in the form in which it read on June 30, 1994; and
- (3) The director of finance shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the occupational safety and health training and assistance fund established pursuant to section 396-4, Hawaii Revised Statutes, prior to June 30, [1996,] 1999."

SECTION 3. There is appropriated out of the occupational safety and health training and assistance fund the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1995–1996, and the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1996–1997, to be expended for education and training for occupational safety and health training programs.

The sums appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval, except that section 3 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 13

H.B. NO. 9-S

A Bill for an Act Making an Appropriation to Provide Counseling, Training, and Other Services to Dislocated Waialua Sugar Company Workers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the recent closure of Waialua Sugar Company has had a profound impact on the former employees of the historic agricultural operation. The employment and education committee of the Waialua Sugar human and social services task force has developed various proposals to counsel and provide training to the dislocated workers of Waialua Sugar Company. The purpose of this Act is to provide the funds necessary to carry out the recommendations and proposals of the task force.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$125,103, or so much thereof as may be necessary for fiscal year 1995-1996, for the following programs and activities:

|  |           |
|--|-----------|
| Counseling component—Wahiawa Community School (DOE)                          | \$ 23,406 |
| Pre-employment training (4 sessions)—WorkHawaii (DLIR)                       | \$ 40,000 |
| Career occupational preference system testing (4 sessions)—WorkHawaii (DLIR) | \$ 2,000  |
| Supplies for Transition Center—Transition Center (DLIR)                      | \$ 2,937  |
| Pre-employment training—Waialua High & Intermediate (DOE)                    | \$ 7,000  |
| Counseling services—Waialua High & Intermediate (DOE)                        | \$ 49,760 |
| TOTAL  | \$125,103 |



SECTION 3. The sum appropriated shall be expended as indicated in Section 2 by the department of labor and industrial relations (DLIR) and the department of education (DOE) for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 14

H.B. NO. 10-S

A Bill for an Act Relating to Hawaiian Home Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings.** The legislature finds that when the United States Congress passed the Hawaiian Homes Commission Act of 1920 (HHCA) and set aside 203,500 acres, more or less, of public lands as Hawaiian home lands for the rehabilitation of native Hawaiians, the United States reaffirmed the trust responsibility it had assumed toward the Hawaiian people.

The legislature also finds that under the Admission Act, the State of Hawaii assumed the trust responsibility to carry out the mandates of the HHCA.

The legislature further finds that thousands of acres of Hawaiian home lands were allegedly used, disposed of, or withdrawn from the trust by territorial or state executive actions in contravention of the HHCA. In recognition of these allegations and toward their resolution, the legislature enacted Act 395, Session Laws of Hawaii 1988, which, among other actions, provided a limited waiver of sovereign immunity for breaches of the Hawaiian home lands trust from July 1, 1988 forward. Act 395 also required the governor to present a proposal to the legislature prior to the convening of the 1991 Regular Session to resolve controversies which arose between August 21, 1959 and July 1, 1988. The governor's Action Plan to Address Controversies under the Hawaiian Home Lands Trust and the Public Land Trust (governor's Action Plan) was accepted by the legislature pursuant to its adoption of S.C.R. No. 185, H.D. 1, in 1991.

The governor's Action Plan, among other actions, proposed convening a task force of representatives from the department of Hawaiian home lands, the department of land and natural resources, the office of state planning, and the department of the attorney general to accelerate the review process concerning department of Hawaiian home lands' land title and compensation claims. The actions of the task force were to include verifying title claims, determining if improper uses were still in existence and whether these uses should be canceled or continued if authorized by the Hawaiian homes commission, conducting appraisals and determining appropriate compensation for past and continued use of Hawaiian home lands, and pursuing all avenues for return of lands and compensation from the federal government for wrongful actions during the territorial period.

In 1992, the legislature approved the resolution of the first set of claims covering gubernatorial executive orders and proclamations which set aside 29,633 acres of lands for public uses such as forest reserves, schools, and parks. Act 316, Session Laws of Hawaii 1992, provided \$12,000,000 to pay verified claims and provide other means to resolve public use controversies.

In 1993, the legislature approved further means to resolve verified claims. Act 352, Session Laws of Hawaii 1993, extended the period within which to pay compensation, continued the authorization to the State to pursue claims against the

United States for the federal government's wrongful actions, and authorized land exchanges to resolve alienations of Hawaiian home lands.

By these previous acts, the State has resolved all disputed set asides of Hawaiian home lands that remain in the control of the State; paid compensation for uncompensated use of Hawaiian home lands from August 21, 1959 through October 28, 1992; paid fair market rent as set by the Hawaiian homes commission for continuing uses from October 28, 1992 through June 30, 1995; paid fair market rent for the use of lands under Nanaikapono elementary school through April 4, 1996; and initiated land exchanges for Hawaiian home lands held by the federal government under lease for nominal rents of \$1 for sixty-five years at Pohakuloa and Kekaha. The legislature also recognizes that in 1994, by a separate administrative initiative, the State initiated the transfer of 16,518 acres of additional useable lands to the department of Hawaiian home lands to be used and administered in accordance with the HHCA.

In 1994, the task force continued to verify and value certain of the claims which remained unresolved, including claims for lands in Lualualei and Waimanalo on Oahu, Anahola, Molokaa, Kamalomalo, and Waimea on Kauai, Puukapu, Keaukaha, Panaewa, and Kawaihae on Hawaii, Kula on Maui, and Kalaupapa on Molokai; and compensation for periods of public use of trust land not already paid. The Hawaiian homes commission's claims to approximately 39,000 acres of such land are disputed due to different interpretations of the HHCA as it describes the lands to be made available for use under the provisions of HHCA. Due to the difficulty of determining the intent of Congress in 1921, it is untenable to administratively prove or disprove the validity of these claims.

The legislature finds that, due to the difficulty, time, uncertainty, disruption of public purposes, impact on the public land trust and private landowners, and expense of judicial resolution of remaining disputed claims, another approach, which results in the repair of the Hawaiian home lands trust and the final resolution of claims against the State, is necessary and in the best interests of the State and the beneficiaries of the trust.

The legislature recognizes and appreciates the hard work and valuable contributions of the task force in reviewing and presenting to the legislature certain recommendations as set forth in the Memorandum of Understanding dated December 1, 1994 (MOU). The legislature notes and expressly finds that the MOU does not bind the legislature and that it is the right and duty of the legislature to exercise its independent judgment and oversight in developing such implementing and related legislation which is in the overall public interest.

In so doing, the legislature finds that the recommendations set forth in the MOU do not bring closure to all matters charged to the task force for review and to all related issues. The legislature by this Act hereby takes these measures to bring the desired closure, to fully effectuate in part the intent of S.C.R. No. 185, H.D. 1, 1991 and the governor's Action Plan, and to fully effectuate the legislature's intent of final disposition of the matters addressed by this Act. The legislature also finds that the disputes surrounding the Hawaiian home lands trust have caused uncertainty in the State with regard to the limited waiver of sovereign immunity contained in Act 395, Session Laws of Hawaii 1988. With respect to all controversies arising between August 21, 1959 and July 1, 1988, excluding individual claims provided for pursuant to chapter 674, Hawaii Revised Statutes, the State hereby affirms that the limited waiver of sovereign immunity permitted by Act 395, Session Laws of Hawaii 1988, is now withdrawn and, to the extent the waiver was not previously withdrawn, it is now fully withdrawn. All claims arising between August 21, 1959 and July 1, 1988, or under any other law enacted in furtherance of the purposes or objectives of Act 395, Session Laws of Hawaii 1988, except those permitted by chapter 674, Hawaii Revised Statutes, are hereby forever barred.

The legislature also finds that the court-appointed independent representative of the beneficiaries of the Hawaiian home lands trust, who is deemed the sole representative of the beneficiary class, has participated in the non-judicial proceedings of the task force as required by Act 352, Session Laws of Hawaii 1993, and as contemplated by Ka'ai'ai v. Drake, First Circuit Civil No. 92-3642.

In passing this Act, it is the intent of the legislature in part to (a) resolve all controversies for the period between August 21, 1959 and July 1, 1988, allowed by Act 395, Session Laws of Hawaii 1988, except those permitted by chapter 674, Hawaii Revised Statutes, (b) resolve all controversies relating to the validity of patents issued after 1920 and prior to July 1, 1988 and affecting any lands covered by or allegedly covered by the HHCA and to all rights arising from or relating to such patents as issued, and (c) make certain other related amendments to chapters 673 and 674, Hawaii Revised Statutes. Additionally, it is the intent of the legislature that if the State is alleged to be liable, for claims of breaches of the Hawaiian home lands trust prior to statehood, this Act shall dispose of and resolve those claims against the State as well.

The legislature also finds that in order to properly utilize Hawaiian home lands, there is a need for a substantial, predictable funding mechanism for the department to appropriately plan for the development of these lands. Therefore, the establishment of a Hawaiian home lands trust fund to provide a steady availability of capital to fund Hawaiian home lands programs is appropriate.

Finally, the legislature acknowledges that generations of beneficiaries and potential beneficiaries have been patient and charitable in their prolonged wait for truth, justice and fair play. The legislature acknowledges the frustration, anxiety and spiritual loss of a class of native people whose culture welcomed strangers and generously shared finite resources. The legislature acknowledges that this Act represents an opportunity to effectuate the purposes of the HHCA.

**SECTION 2. Purpose.** The primary purposes of this Act are to:

- (1) Resolve all controversies relating to the Hawaiian home lands trust which arose between August 21, 1959 and July 1, 1988;
- (2) Prohibit any and all future claims against the State resulting out of any controversy relating to the Hawaiian home lands trust which arose between August 21, 1959 and July 1, 1988;
- (3) Resolve all controversies after 1920 and prior to July 1, 1988 relating to the validity of patents issued and affecting any lands covered by or allegedly covered by HHCA and to all rights arising from or relating to such patents as issued;
- (4) Appropriate such funds and provide additional means as may be necessary to accomplish the intent and purpose of this Act;
- (5) Establish a trust fund to provide a substantial, secure, and predictable funding source for the department of Hawaiian home lands to use to effectuate the purposes of the HHCA;
- (6) Further the public interest by ensuring that claims which have arisen or may arise in the future with respect to the administration of the Hawaiian home lands trust and are brought pursuant to chapters 673 and 674, Hawaii Revised Statutes, are resolved in a fair, complete, and timely manner.

This Act is not intended to replace or affect the claims of beneficiaries with regard to reparations from the federal government. It is however, intended to preclude forever any derivative or other claims of any description which the federal government may attempt to tender to the State.

**SECTION 3. Definitions.**

“Beneficiary” means any person eligible to receive benefits of home-  
steading and related programs of the Hawaiian home lands trust.

“Commission” means the Hawaiian homes commission.

“Department” means the department of Hawaiian home lands.

“Fair market value” means the definition of that term or, if that term is not defined, the definition of the term “market value”, in the then-current edition of the Uniform Standards of Professional Appraisal Practice issued by The Appraisal Foundation or, if that publication is not in publication, then another publication of standard professional appraisal practice recognized by the department of commerce and consumer affairs.

“Governmental agency” or “State” means the State of Hawaii, municipal or county governments, or any department, bureau, division, agency or political subdivision thereof, or any board, commission, or administrative agency thereof.

“Hawaiian home lands” has the same meaning as defined in section 201(a)(5) of the HHCA.

“HHCA” means the Hawaiian Homes Commission Act of 1920, as amended.

“Independent representative” means the independent representative appointed in accordance with Act 352, Session Laws of Hawaii 1993.

“Patent” means any land patent grant, royal patent grant, patent upon award of the land commission, deed, grant, or other similar instrument in regular form duly executed on behalf of the State or its predecessors from and after January 1, 1846.

“Task force” means that task force created pursuant to the Governor’s Action Plan to Address Controversies under the Hawaiian Home Lands Trust and the Public Land Trust as acknowledged by the legislature in its adoption of S.C.R. No. 185, H.D. 1, in 1991.

“Trust” means the Hawaiian home lands trust.

“Trust fund” means the Hawaiian home lands trust fund created by this Act and any additions thereto or increment thereon.

SECTION 4. The passage of this Act is in full satisfaction and resolution of all controversies at law and in equity, known or unknown, now existing or hereafter arising, established or inchoate, arising out of or in any way connected with the management, administration, supervision of the trust, or disposition by the State or any governmental agency of any lands or interests in land which are or were or are alleged to have been Hawaiian home lands, or to have been covered by the HHCA arising between August 21, 1959 and July 1, 1988.

The passage of this Act shall have the effect of *res judicata* as to all parties, claims, and issues which arise and defenses which have been at issue, or which could have been, or could in the future be, at issue, which arose between August 21, 1959 and July 1, 1988, whether brought against the State or its officials, directly or indirectly, by subrogation, derivative or third party action, tender, federal action, or by any other means whatsoever.

The passage of this Act shall not replace or affect the claims of beneficiaries against the federal government arising under the HHCA, provided that such claims are barred as against the State to the extent the State is alleged to be derivatively liable on such claims, or if the federal government tenders such claims to the State.

Nothing in this section shall replace or affect the claims of beneficiaries with regard to (a) reparations from the federal government, (b) claims arising subsequent to July 1, 1988 and brought pursuant to sections 2, 3, and 4 of Act 395, Session Laws of Hawaii 1988, except as otherwise provided in section 13 of this Act or (c) Hawaiian home lands trust individual claims brought pursuant to chapter 674, Hawaii Revised Statutes, except as otherwise provided in sections 14, 15 and 16 of this Act.

SECTION 5. All patents issued and affecting any lands covered by, or alleged to be covered by, the HHCA, from the inception of that Act to July 1, 1988, whether issued by the territory or the State of Hawaii, are hereby confirmed as issued, and no action on such patents may be maintained.

SECTION 6. The State, while not admitting the validity of any claims, hereby resolves and satisfies all controversies and claims encompassed by this Act by:

- (1) The establishment of the Hawaiian home lands trust fund and the requirement that the State make twenty annual deposits of \$30,000,000, or their discounted value equivalent, into the trust fund; provided that in lieu of sums deposited hereunder, the State may, with the approval of the Commission, substitute from time to time land or other consideration having the fair market value of such deposit, as mutually agreed by the State and Commission; provided that the State may, at any time, prepay sums due hereunder, without penalty, and that the total amount to be deposited into the trust fund shall be adjusted by such prepayment based on a discount rate per year equal to the then-average weekly investment rate on five year Treasury Bills; and provided further that the payment of funds into the trust fund shall include any interest, as determined by section 478-2, Hawaii Revised Statutes, on the unpaid balance of any funds due but not appropriated by the end of each respective fiscal year;
- (2) The transfer of lands and resolution of claims in the Waimanalo, Anahola, Kamalomalo, and Moloaa areas; the compensation for all remaining confirmed uncompensated public uses of Hawaiian home lands; the initiation of a land exchange to remedy uncompensated use of Hawaiian home lands for state roads claims and highways; and the provision of the first selection of up to two hundred acres of land, to be conveyed to the department to fulfill the provisions of claims resolution, upon the return to the State of any ceded lands, comprising all, or a portion of Bellows Air Force Station (TMK: 4-1-15.) Disputes with respect to the transfer of lands and resolution of claims in the Waimanalo, Anahola, Kamalomalo and Moloaa areas, as identified by the task force and approved by the Commission at its meeting on November 4, 1994, are resolved by the exchanges more particularly described in the Commission's action;
- (3) The payment of \$2,348,558, appropriated herein, for the purpose of paying in advance all rent due for department of Hawaiian home lands license agreement no. 308 for the continued State use of trust lands under Nanaikapono elementary school between April 4, 1996 and October 27, 2002;
- (4) The payment of \$2,390,000, appropriated herein for the purpose of paying compensation for the State's uncompensated use of Hawaiian home lands between 1959 and 1995; and
- (5) The payment of \$1,539,000, appropriated herein, for the purpose of payment of moneys owed the department of Hawaiian home lands as its thirty per cent entitlement for the use of Hanapepe, Kauai, public lands formerly under lease of sugarcane cultivation on November 7, 1978, pursuant to section 1 of article XII of the Constitution of the State of Hawaii.

The fair market value of land or other consideration under subsection (1) of this section shall be established by the department of land and natural resources with the approval of the Commission.

Payments made under this Act shall not diminish funds that the department is entitled to under article XII, section 1, of the Constitution of the State of Hawaii.

SECTION 7. The HHCA is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Hawaiian home lands trust fund.** There is established in the treasury of the State a trust fund to be known as the Hawaiian home lands trust fund, into which shall be deposited all appropriations by the State legislature specified to be deposited therein. Moneys of the Hawaiian home lands trust fund shall be expended by the department as provided by law upon approval by the commission and shall be used for capital improvements and other purposes undertaken in furtherance of the Act. The department shall have fiduciary responsibility toward the trust fund, and shall provide annual reports therefor to the legislature and to the beneficiaries of the trust. Any interest or other earnings arising out of investments from the trust fund shall be credited to and deposited into the trust fund.”

SECTION 8. (a) Notwithstanding the provisions of section 201E-207.5, Hawaii Revised Statutes, there is authorized and appropriated from moneys on deposit in the homes revolving fund created by section 201E-207, Hawaii Revised Statutes, \$30,000,000 for fiscal year 1995–96 for deposit into the Hawaiian home lands trust fund. The foregoing authorization and appropriation constitutes a legislative reallocation of the moneys in the homes revolving fund and such transfer shall not constitute or be deemed to constitute a loan from the homes revolving fund.

(b) There is authorized and appropriated \$30,000,000 in general obligation bond funds of the State of Hawaii for fiscal year 1996–97 for deposit into the Hawaiian home lands trust fund.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,348,558, or so much thereof as may be necessary for fiscal year 1995–96, for the purpose of paying in advance all rent due for department of Hawaiian home lands license agreement no. 308, for the continued State use of Hawaiian home lands under Nanaikapono elementary school, for the period of April 4, 1996, through October 27, 2002. The sum appropriated shall be expended by the department of education.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,390,000, or so much thereof as may be necessary for fiscal year 1995–96, for the purpose of paying compensation for the State’s uncompensated use of Hawaiian home lands for the period of August 21, 1959 through June 30, 1995. The sum appropriated shall be expended by the department of budget and finance upon certification from the office of state planning that a wrongful use has been verified. Compensation may be paid as claims are verified and the amounts of compensation owed are determined.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,539,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the purpose of payment of moneys owed the department of Hawaiian home lands as its thirty per cent entitlement for the use of Hanapepe, Kauai, public lands formerly under lease for sugarcane cultivation on November 7, 1978, pursuant to section 1 of article XII of the Constitution of the State of Hawaii. The sum appropriated shall be expended by the department of budget and finance.

SECTION 12. To the extent still available, the limited waiver of sovereign immunity is hereby withdrawn with respect to any claim, cause of action or right of action against the State arising out of an act or omission committed or omitted between August 21, 1959 and July 1, 1988, excluding individual claims under chapter 674, Hawaii Revised Statutes, as first permitted by Act 395, Session Laws of Hawaii 1988, or under any other law enacted in furtherance of the purposes of that Act. Any claim, cause of action or right of action permitted by Act 395, Session Laws of Hawaii 1988, is forever barred except with regard to:

- (1) A cause of action accruing after June 30, 1988 as may be permitted by chapter 673, Hawaii Revised Statutes; or
- (2) An individual claim as may be permitted by chapter 674, Hawaii Revised Statutes.

SECTION 13. Section 673-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§673-10] Limitation on actions; native Hawaiians.** Every claim arising under this chapter shall forever be barred unless the action is commenced within two years after the cause of action first accrues; provided that this statute of limitations shall be tolled until July 1, 1990; provided<sup>1</sup> that the filing of the claim in an administrative proceeding pursuant to this [chapter] shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until ninety days after the date the decision is rendered in the administrative proceeding;<sup>2</sup> provided further that any cause of action that first accrues after July 1, 1995 shall forever be barred unless the action is commenced within two years after the cause of action first accrues.”

SECTION 14. Section 674-2, Hawaii Revised Statutes, is amended by amending the definition of “actual damages” to read:

““Actual damages” means direct, monetary out-of-pocket loss, excluding noneconomic damages as defined in section 663-8.5 and consequential damages, sustained by the claimant individually rather than the beneficiary class generally, arising out of or resulting from a breach of trust, which occurred between August 21, 1959, and June 30, 1988, and was caused by an act or omission by an employee of the State with respect to an individual beneficiary in the management and disposition of trust resources.”

SECTION 15. Section 674-19, Hawaii Revised Statutes, is amended to read as follows:

“**§674-19 Limitation on actions.** Every claim cognizable under this part shall forever be barred unless the action is commenced by September 30, [1999.] 1998.”

SECTION 16. Chapter 674, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§674- Preclusion of title-related claims.** Nothing in this chapter shall be construed to affect title, or conveyance of title, or place a cloud upon title, to any lands in the State, including but not limited to lands which were, are, or may have been Hawaiian home lands.”

SECTION 17. Notwithstanding any other law to the contrary, the State and its officials, the members of the board, the members of the Commission and the independent representative shall not be subject to suit by any party on any decision relating to the resolution of these claims, except for actions to enforce the provisions of this Act.

SECTION 18. If any portions of chapters 673 and 674, Hawaii Revised Statutes, are inconsistent with any of the provisions of this Act, then the provisions of this Act shall prevail. The Memorandum of Understanding is not binding on the legislature and the State and does not have the force and effect of law. To the extent that the Memorandum of Understanding is inconsistent with the provisions of this Act, then the provisions of this Act shall prevail.

SECTION 19. The 16,518 acres of land conveyed by the State to the department of Hawaiian home lands for the purpose of replenishing the trust corpus shall be treated by the department of Hawaiian home lands in the same manner as those lands originally established in the trust and subject to all the conditions thereon.

SECTION 20. Notwithstanding section 1-23, Hawaii Revised Statutes, if any provision of this Act or the application thereof to any person or circumstance is held invalid in whole or in part, this Act shall be invalid and no other provision shall have the force or effect of law, except that nothing in this section shall operate to (a) invalidate the withdrawal of the limited waiver of sovereign immunity as provided by section 12 of this Act, (b) the confirmation of patents as provided by section 5 of this Act, and (c) the undertakings set forth in sections 9, 10 and 11 of this Act.

SECTION 21. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 22. This Act shall take effect upon its approval; except that sections 8, 9, 10 and 11 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

#### Notes

1. Prior to amendment "further" appeared here.
2. Semicolon should be underscored.
3. Edited pursuant to HRS §23G-16.5.

## ACT 15

H.B. NO. 11-S

A Bill for an Act Relating to State Finances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

**"§28- Medicaid investigations recovery fund; established.** There is established in the state treasury the medicaid investigations recovery fund as a special fund, and which is to be administered by the department of the attorney general, into which shall be deposited all funds that have been recovered as a result of medicaid fraud settlements. Moneys from this special fund shall be used to



support a portion of operating expenses of the medicaid fraud unit within the department of the attorney general.”

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding four new sections to read as follows:

**“§37- Prior year accounts.** The state comptroller shall establish new appropriation accounts for all funds other than general funds, general obligation bond funds, and all other capital improvement project funds on July 1 of each fiscal year. Unless otherwise provided by law, all unencumbered balances from accounts for all funds other than general funds, general obligation bond funds, and all other capital improvement project funds established in previous years shall be deposited in the appropriate account for the current fiscal year; provided that this section shall not apply to those funds which are designated by either the legislature or the director of finance for transfer to the general fund.

**§37- Encumbrances, when void.** (a) All encumbrances for claims which the director of finance has determined to be inactive shall become void six months from the date of the original encumbrance, or within a period of time less than six months as designated by the director of finance.

(b) All encumbrances for contracts shall become void after five years from the date of the original encumbrance; provided that the comptroller may grant an exemption from this subsection if the comptroller finds that there is sufficient justification to extend a contract encumbrance.

**§37- Transfers of non-general funds to the general funds.** (a) The director of finance shall submit written notification to the legislature within ten days of any transfer of non-general funds to the general fund.

(b) The director of finance shall prepare an annual report to be submitted to the legislature no later than twenty days prior to the convening of each regular session on such transfers for the preceding fiscal year.

**§37- Reporting of non-general fund information.** No later than twenty days prior to the convening of each regular session, each department shall submit to the legislature a report for each non-general fund account which shall include but not be limited to, the following:

- (1) The name of the fund and a cite to the law authorizing the fund;
- (2) The intended purpose of the fund;
- (3) The current program activities which the fund supports;
- (4) The balance of the fund at the beginning of the current fiscal year;
- (5) The total amount of expenditures and other outlays from the fund account for the previous fiscal year;
- (6) The total amount of revenue deposited to the account for the previous fiscal year;
- (7) A detailed listing of all transfers from the fund;
- (8) The amount of moneys encumbered in the account as of the beginning of the fiscal year;
- (9) The amount of funds in the account which are required for the purposes of bond conveyance or other related bond obligations;
- (10) The amount of moneys in the account derived from bond proceeds; and
- (11) The amount of moneys of the fund held in certificates of deposit, escrow accounts or other investments.”

SECTION 3. Section 36-31, Hawaii Revised Statutes, is amended to read as follows:

**“§36-31 Transfers from special funds, limited or suspended, when.** (a) If any transfer contemplated by sections 36-27, 36-29, and 36-30 might, if effected, result in loss to the State or to any special fund affected, of any federal funds, or would be in violation of the Constitution or any law of the United States, the governor shall issue an executive order setting forth the facts and suspending the application of sections 36-27, 36-29, and 36-30 to the special fund affected in whole or in part, or limiting the transfer, as shall be necessary to avoid the loss of federal funds or to avoid the unconstitutionality or violation. The transfer shall not be made except to the extent, if at all, which will not result in the loss of federal funds or violation.

(b) If any transfer contemplated by section 36-28 might, if effected, cause an expenditure out of the state highway fund in excess of moneys available in such fund, result in loss to the State or to the state highway fund or any federal funds, or would be in violation of the Constitution or any law of the United States, the governor shall issue an executive order setting forth the facts and suspending the application of section 36-28 to the state highway fund in whole or in part, or limiting the transfer, as shall be necessary to avoid the expenditure of moneys in excess of moneys available in the state highway fund, the loss of federal funds or to avoid the unconstitutionality or violation. The transfer shall not be made except to the extent, if at all, which will not result in the loss of federal funds or violation.

(c) Effective July 1, 1995, transfers for central services expenses shall be limited to the current fiscal year; provided that this subsection shall not apply to assessments made but not collected for prior years.”

SECTION 4. On July 1, 1995, the director of finance shall transfer the following sums to the general fund from the corresponding sources identified:

- |   |             |
|---|-------------|
| (1) Hawaii historic preservation special fund, section 6E-16, Hawaii Revised Statutes .....                 | \$ 300,000  |
| (2) State educational facilities improvement special fund, section 36-32, Hawaii Revised Statutes .....     | \$4,400,000 |
| (3) In-service training programs and activities revolving fund, section 81-3, Hawaii Revised Statutes ..... | \$ 241,544  |
| (4) Aloha stadium special fund, section 109-3, Hawaii Revised Statutes .....                                | \$1,900,000 |
| (5) Hawaii agricultural loan revolving fund, section 155-14, Hawaii Revised Statutes .....                  | \$3,000,000 |
| (6) Industrial park special fund, section 171-138, Hawaii Revised Statutes .....                            | \$7,000,000 |
| (7) Hawaii capital loan revolving fund, section 210-3, Hawaii Revised Statutes .....                        | \$1,200,000 |
| (8) Hawaii strategic development corporation revolving fund, section 211F-5, Hawaii Revised Statutes .....  | \$3,000,000 |

SECTION 5. The legislature determines that there is in the dwelling unit revolving fund at least \$12,000,000 in excess of requirements of the fund. There is hereby authorized and appropriated from the retained earnings in the dwelling unit revolving fund created by section 201E-204, Hawaii Revised Statutes, the sum of \$12,000,000, for fiscal year 1995–1996 for deposit into the general fund; but only to the extent such retained earnings are not subject to or are in excess of any rebatable arbitrage that is owed to the U.S. Treasury resulting from the investment of moneys in the dwelling unit revolving fund which are general obligation bond proceeds.

SECTION 6. The legislature determines that there is in the homes revolving fund at least \$34,000,000 in excess of requirements of the fund. There is hereby authorized and appropriated from the retained earnings in the homes revolving fund created by section 201E-207, Hawaii Revised Statutes, the sum of \$34,000,000, for fiscal year 1995-1996 for deposit into the general fund.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1995-1996, for legislative studies and for contractual services for those studies.

The sum appropriated shall be expended by the office of the legislative auditor.

SECTION 8. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 16

H.B. NO. 12-S

A Bill for an Act Relating to Governmental Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. (a) In the late 1980's, the steady decline of the sugar industry threatened the economic stability of the entire Hilo-Hamakua Coast on the island of Hawaii. However, long before the actual closure of Hamakua Sugar Company and the Hilo Coast Processing Corporation, the residents of Hilo-Hamakua organized to prepare the employees, their families, and the community for the eventual loss of their primary economic base as well as their traditional plantation lifestyle.

Immediately, the legislature took a proactive role in assisting the Hilo-Hamakua community. For example:

- (1) Act 85, Session Laws of Hawaii 1993, provided a state loan guaranty that ensured a final harvest at Hamakua Sugar Company. In retrospect, this action not only provided much needed jobs for sugar workers, but it has also provided the state with approximately \$3,000,000 (the original \$800,000 deposit and \$2,200,000 in fees earned by the Hamakua Sugar Loan Guaranty trust fund). The auditor has recommended that this amount be deposited into the general fund;
- (2) Act 311, Session Laws of Hawaii 1993, designated the entire Hamakua planning region as a community development district, thereby authorizing the replanning, renewal, and redevelopment of the region by the Hawaii community development authority;
- (3) Act 311, Session Laws of Hawaii 1993, also appropriated \$1,000,000 for fiscal year 1993-1994, to help establish this community development district; and
- (4) Act 241, Session Laws of Hawaii 1994, appropriated \$1,500,000 for fiscal year 1994-1995, and specified seven projects for which the funds

may be used, including resource/family youth centers, transitional support employment and training, and primary health care center subsidies.

(b) Mobilized into six task forces/work groups, the Hilo-Hamakua residents have made significant progress in rebuilding their community. The following summarizes some of the major accomplishments, to date:

- (1) Employment and training task force—two hundred seven former sugar employees have been placed in jobs and have started new careers. Six hundred fifty former sugar employees have enrolled in various training and other transitional programs.
- (2) Hamakua housing corporation—The major accomplishment was that none of the more than four hundred families living in Hamakua Sugar Company plantation camp housing units were made homeless. On October 1, 1994, the corporation assumed operational responsibility for the plantation camp housing units. The corporation executed a license agreement to allow it to manage the housing units until conveyance of fee simple title to the property is completed. The corporation also educated residents about an emergency grant loan provided by the legislature during the 1994 regular session. To date, seven of the twelve loan applications have been approved.
- (3) Diversified agriculture task force—The task force has assisted with the organization of the Hamakua North Hilo agricultural cooperative. It helped secure 1,412 acres of state agricultural lands for the cooperative to distribute to members to continue agricultural use of the lands. The task force also secured:
  - (A) \$2,200,000 for agricultural products with potential military use;
  - (B) \$850,000 for an agricultural park in Honokaa; and
  - (C) \$195,000 to inventory and study the lower Hamakua ditch to utilize agricultural water for farm activities.
- (4) High technology task force—The task force is assisting in the establishment of a teleservice center in Laupahoehoe in partnership with the high technology development corporation. Small business owners and farmers will be trained to utilize the center's equipment.
- (5) Family, health, and community support task force—The Hilo Coast resource center opened with a staff composed of former sugar workers or their family members and ILWU employees. Two other outreach offices also opened: the Hamakua support program office and the North Hilo satellite office. Over three hundred families converted from their sugar medical plan to the state health insurance program; eight hundred retirees converted from their company's supplemental health insurance coverage to the Hawaii Medical Services Association; and four hundred families enrolled in Health QUEST. Finally, the Hamakua health center remained open, providing health care to four thousand five hundred community residents.
- (6) Economic development task force—The hay project is proceeding under an \$80,000 grant. This demonstration project involves cattle feed production for export to Japan. Technical assistance is also being provided to assess the aquaculture needs and potential of the area for aquaculture entrepreneurs. The Honokaa Business Association is undertaking two special community events designed to increase the number of visitors to Honokaa. Over twenty-four displaced sugar workers are involved with a dracaena project that will utilize one hundred fifty acres of state land as well as additional acreage owned by Kamehameha Schools/Bishop Estate.

The legislature finds that the Hilo-Hamakua residents have made significant progress in rebuilding their community and that the State should continue to support their recovery efforts.

## PART II

SECTION 2. To enable residents to continue efforts to help themselves, it is imperative that the funds already committed to the restoration of the Hilo-Hamakua community continue to be available.

A similar funding situation occurred during the 1994 regular session. The legislature recognized that a portion of the \$1,000,000 appropriation would not be expended by the end of fiscal year 1993–1994. If nothing was done, the unexpended funds would have lapsed. For this reason, Act 241, Session Laws of Hawaii 1994, extended the authorization to expend these funds through fiscal year 1994–1995.

The purpose of this part is to extend to fiscal year 1995–1996, the authorization to expend the funds previously authorized in Act 311, Session Laws of Hawaii 1993; Act 228, Session Laws of Hawaii 1994; and Act 241, Session Laws of Hawaii 1994.

SECTION 3. Act 311, Session Laws of Hawaii 1993, as amended by Act 241, Session Laws of Hawaii 1994, is amended by amending section 6 to read as follows:

“SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal years 1993–1994 and 1994–1995, to carry out the purposes of this Act. The appropriation made for the purposes authorized in this section shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that any appropriation that is unencumbered as of June 30, 1996, shall lapse as of that date. The sum appropriated shall be expended by the department of budget and finance for purposes of this Act. The sum of \$472,500 may be used for the following purposes:

- (1) Resource/Family/Youth centers with outreach (5.50 FTE) workers and counseling services[;], and development of a child care services system;
- (2) Newspaper and community bulletin board;
- (3) Agricultural infrastructure development;
- (4) Aquaculture and community-based agricultural programs;
- (5) Primary health care center subsidies;
- (6) Transitional support employment and training for dislocated workers; and
- (7) Hamakua community liaison position.”

SECTION 4. Act 228, Session Laws of Hawaii 1994, is amended by amending sections 2 and 3 to read as follows:

“SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1994–1995, to provide low-interest loans of up to \$10,000 each to employees and former employees of the Hilo Coast Processing Company and the Hamakua Sugar Company and former employees of Mauna Kea Agribusiness Company, sugar division to provide for the payment of their monthly mortgage loan payment, which may include but not be limited to, principal and interest payments, real property taxes, and insurance. The appropriation made for the purposes authorized in this section shall not lapse at the end of the fiscal year for which the appropriation is

made; provided that any appropriation that is unencumbered as of June 30, 1996, shall lapse as of that date. The loans shall be limited to one loan per household and the rate of interest on loans made pursuant to this Act shall not exceed three per cent per annum. Interest earnings on funds appropriated and loans made pursuant to this Act may be used for administrative and other expenses necessary for administering the loan program. Loans made pursuant to this Act may not require repayment to begin for a period of two years after the loan agreement is executed. Loan proceeds distributed may be made directly to the borrower's note and mortgage holder to ensure timely payment of the borrower's mortgage payment. Guidelines for administering this loan program shall be established by the housing finance and development corporation.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1994–1995, to enable the housing finance and development corporation to develop and implement a grant program to address administrative, maintenance, and critical infrastructure improvement costs to ensure the continued operation of Hamakua Sugar Plantation Camp Housing Units. The appropriation made for the purposes authorized in this section shall not lapse at the end of the fiscal year for which the appropriation is made; provided that any appropriation that is unencumbered as of June 30, 1996, shall lapse as of that date.

The housing finance and development corporation shall develop as part of this grant program a special rental subsidy program for employees, former employees who are in transition to other employment, and retirees of the Hamakua Sugar Company who are currently residing in the plantation camp areas.”

SECTION 5. Act 241, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary for fiscal year 1994–1995, to assist the Hilo-Hamakua community for the following purposes:

- (1) Resource/Family/Youth centers with outreach (5.50 FTE) workers and counseling services[;], and development of a child care services system;
- (2) Newspaper and community bulletin board;
- (3) Agricultural infrastructure development;
- (4) Aquaculture and community-based agricultural programs;
- (5) Primary health care center subsidies;
- (6) Transitional support employment and training for dislocated workers; and
- (7) Hamakua community liaison position.

Of the \$1,500,000 appropriation for fiscal year 1994–1995, \$560,000 shall be awarded to the Hamakua/North Hilo Agricultural Cooperative as a grant made pursuant to the provisions of chapter 42D, Hawaii Revised Statutes, for the purpose of assisting in the creation of a diversified agricultural economic base to assist workers and families along the Hilo-Hamakua Coast.

The appropriation made for the purposes authorized in this section shall not lapse at the end of the fiscal year for which the appropriation is made; provided that any appropriation which is unencumbered as of June 30, 1996, shall lapse as of that date.”

### PART III

SECTION 6. The legislature finds that:

- (1) The State may, under the bankruptcy settlement agreement, In re: Hamakua Sugar Company, Inc., U.S. Bankruptcy Court for the District of Hawaii, Case No. 92-00865 (approved on June 11, 1993) (Bankruptcy Settlement Agreement), maintain the lower Hamakua ditch for a three-year period as referenced in the Bankruptcy Settlement Agreement;
- (2) Maintenance on the lower Hamakua ditch has been neglected due to Hamakua Sugar Company's financial problems, which culminated in its bankruptcy. As a result, the lower Hamakua ditch has deteriorated significantly. Repairs are necessary to maintain the lower Hamakua ditch at a minimal operational level. If such repairs are not made, the condition of the lower Hamakua ditch will continue to decline to the point where it may cease to be usable for agricultural purposes unless significant capital expenditures are made;
- (3) The repair and maintenance of the lower Hamakua ditch will promote the economy of the State and the public interest, health, safety, and welfare of the people of the State; and
- (4) The repair and maintenance of the lower Hamakua ditch by the State, for the purpose of this Act, is for a public use and for the purpose of protecting the public health, safety, and welfare of all people in Hawaii.

It is therefore declared to be necessary, and it is the purpose of this part to alleviate the above-mentioned conditions by authorizing the repair and maintenance of the lower Hamakua ditch by the State pursuant to the terms of the Bankruptcy Settlement Agreement, and providing for the public financing of such action through the issuance of bonds and the expenditure of general funds.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$360,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the continued operation of the lower Hamakua ditch to ensure a source of water for Hamakua farmers as set forth in the Bankruptcy Settlement Agreement.

The sum appropriated shall be expended by the department of agriculture.

SECTION 8. The director of finance is authorized to issue general obligation bonds in the sum of \$500,000, or so much thereof as may be necessary, and the same sum, or so much thereof as may be necessary, is appropriated for fiscal years 1995–1996 and 1996–1997, for the following projects:

- (1) Plans, design, and construction for major repair and maintenance to the lower Hamakua ditch.

|              |          |
|--------------|----------|
| Plans        | \$ 1,000 |
| Design       | 1,000    |
| Construction | 298,000  |
| Total        | 300,000  |

- (2) Plans, design, and construction of a marshalling yard.

|              |          |
|--------------|----------|
| Plans        | \$ 1,000 |
| Design       | 1,000    |
| Construction | 198,000  |
| Total        | 200,000  |

The appropriations made for capital improvement projects authorized in this section shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations which are unencumbered as of June 30, 1998, shall lapse as of that date.

The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

#### PART IV

SECTION 9. The legislature finds that the Hilo-Hamakua residents are committed to rebuilding their community through their own direct actions. The legislature further finds that although the Hilo-Hamakua residents have made significant progress, much more needs to be done. The purpose of this part is to further support the recovery efforts by appropriating funds for this purpose.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$520,000, or so much thereof as may be necessary for fiscal year 1995–1996, for:

- (1) Various agricultural projects not funded by the United States Department of Defense and the agribusiness development corporation; and
- (2) The hiring of an agricultural specialist and an aquacultural specialist.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$550,000, or so much thereof as may be necessary for fiscal year 1995–1996, to create sustainable and expandable systems for community-based economic development in the following manner:

- (1) Facilitate the rebuilding of a healthy Hilo-Hamakua economy through continued operation of the Hilo-Hamakua community liaison office;
- (2) Support the Hilo-Hamakua community development corporation in its efforts to establish a funding mechanism for the long-term needs of the community that is eventually self-generating and self-sufficient;
- (3) Begin new, viable small businesses by providing seed and start-up capital to individuals who cannot qualify for traditional loans from conventional lending institutions through an economic development micro-enterprise loan and grant program;
- (4) Decrease the formidable physical dimensions of the fifty-mile Hilo-Hamakua community through an electronic project management and communications system;
- (5) Preserve the cultural heritage of the region and develop viable enterprises and job opportunities related to cultural heritage by implementing the cultural heritage corridor concept in four communities;
- (6) Support the needs of area residents as well as support the development of small businesses through various services provided by the community communications and work center located at Kalanianaʻole school; and
- (7) Award microloans.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$86,000, or so much thereof as may be necessary for fiscal year



1995–1996, to provide wage-subsidized training opportunities for displaced sugar workers in skilled occupational areas.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$49,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the Hamakua-Hilo Coast teleservice/telework center to continue the promotion of electronic communications applications, including e-mail and teleconferencing, and to develop new computer-related work skills and training for the local work force.

The sum appropriated shall be expended by the high technology development corporation for the purposes of this Act.

SECTION 14. The director of finance is authorized to issue general obligation bonds in the sum of \$800,000, or so much thereof as may be necessary, and the same sum, or so much thereof as may be necessary, is appropriated for fiscal years 1995–1996 and 1996–1997, for the following project:

Plans, design, construction, and equipment for the installation of septic tanks with small diameter effluent sewer lines and leach fields to enable four-hundred former sugar plantation dwelling units to comply with department of health sewage disposal requirements.

|              |          |
|--------------|----------|
| Plans        | \$ 1,000 |
| Design       | 1,000    |
| Construction | 797,000  |
| Equipment    | 1,000    |
| Total        | 800,000  |

The appropriations made for capital improvement projects authorized in this section shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations which are unencumbered as of June 30, 1998, shall lapse as of that date.

The sums appropriated shall be expended by the housing finance and development corporation for the purposes of this Act.

SECTION 15. There is appropriated out of the general revenues of the State of Hawaii the sum of \$455,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the continuation of the Hilo-Hamakua support program to provide a variety of services, including:

- (1) Outreach and information and referral to families and other persons impacted by the closure of the two sugar companies;
- (2) The assistance provided by the Hamakua and Hilo Coast resource centers and satellites in north Hilo and Paauilo;
- (3) Programs and support for children and youth;
- (4) Assistance to groups and communities to participate in community planning regarding economic development, diversified agriculture, housing, and employment and training;
- (5) The promotion of collaborative efforts with other service providers;
- (6) Transportation services; and
- (7) The dissemination of information through various means, including a community newspaper.

The sum appropriated shall be expended by the department of labor and industrial relations, office of community services for the purposes of this Act.

SECTION 16. There is appropriated out of the general revenues of the State of Hawaii the sum of \$40,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the provision of the following services for rural South Hilo: health assessments, information/referral assistance, short-term interventions, health education/monitoring, and activity coordination.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

## PART V

SECTION 17. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval, except that sections 3 through 5 shall take effect on June 30, 1995 and sections 7, 8, and 10 through 16 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 17

H.B. NO. 13-S

A Bill for an Act Relating to the Hawaii Hurricane Relief Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431P-1, Hawaii Revised Statutes, is amended:

1. By adding three new definitions to be appropriately inserted and to read as follows:

““Companion policy” means a policy of property insurance issued by a servicing facility in conjunction with a fund policy of hurricane property insurance that provides, at a minimum, coverage equivalent to a standard fire policy for the peril of fire and windstorm and, after considering all exclusions and endorsements, that provides insurance for wind related losses or damage created by a weather system that has not resulted in the declaration and definition of a hurricane watch or warning.

“Licensed property and casualty insurer” means:

- (1) Any insurer licensed to transact any one or more classes of insurance authorized in section 431:3-204 where premiums written within such authority are required to be reported in the “Exhibit of Premiums and Losses” for this State in the National Association of Insurance Commissioners fire and casualty annual statement convention blank that is required to be filed with the commissioner under section 431:3-302; and
- (2) The Hawaii Property Insurance Association created in article 21 of chapter 431.

“Mortgage” means every transfer of an interest in real property, except fixtures, made as security for the performance of another act or subject to defeasance upon the payment of an obligation, whether the transfer is made in trust or otherwise.”

2. By amending the definition of “eligible property” to read as follows:

““Eligible property” means:

- (1) Real property of one to four units used for residential purposes and which is in insurable condition, and tangible personal property located therein or thereon, as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation; [and]
- (2) Real property used for business, commercial, or industrial purposes which is in insurable condition, and which may include tangible personal property, located therein or thereon, as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation[.];
- (3) Tangible personal property owned by an occupant of and located in or on real property of the types described in paragraph (1); provided that the owner of the tangible personal property does not own the real property in or on which the tangible personal property is located; and
- (4) Tangible personal property owned by an occupant of and located in or on real property of the types described in paragraph (2) at the discretion of the fund and as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation; provided that the owner of the tangible personal property does not own the real property in or on which the tangible personal property is located.”

3. By amending the definition of “policy of hurricane property insurance” to read as follows:

““Policy of hurricane property insurance” means a policy or endorsement of insurance issued by the fund insuring only against damage or loss to eligible property caused by a covered event in excess of the deductible and up to:

- (1) \$750,000 per risk on real property of one to four units used for residential purposes and the personal property located therein or thereon; and [up to]
- (2) \$500,000 per risk on real and personal property used for business, commercial, or industrial purposes, subject to the limits defined by the plan of operation;

provided that this policy shall not include coverage for business interruption[.] and other similar coverages.”

SECTION 2. Section 431P-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the general powers under subsection (a), the fund shall have the specific power to:

- (1) Adopt and administer a plan of operation in accordance with section 431P-7, and a manual of rules and rates to provide persons having an insurable interest in eligible property with insurance coverage provided by the fund;
- (2) Authorize the provision of hurricane coverage by the fund for tangible personal property located in or on real property used for business,

- commercial, or industrial purposes and establish limits of liability for specific coverages within the range of authorized coverage;
- (3) Adopt actuarially sound rates based on reasonable assumptions relative to expectations of hurricane frequency and severity for all coverage provided under policies or endorsements issued by the fund. Rates adopted shall be subject to approval by the commissioner pursuant to article 14 of chapter 431. Rates adopted shall provide for classification of risks and shall include past and prospective losses and expense experience in this State;
  - (4) Adopt procedures, guidelines, and surcharges applicable to [hurricane] policies of hurricane property insurance issued in connection with an underlying property policy issued by an unauthorized insurer;
  - (5) Adopt any form of insurance policy necessary for providing policies of hurricane property insurance by the fund, with the approval of the commissioner;
  - (6) Issue [insurance] policies of hurricane property insurance and pay claims for coverage over the mandatory deductible;
  - (7) Require every licensed property and casualty insurer transacting direct property insurance business in this State to act as a servicing facility, and by contract with [such] that insurer authorize [such] the insurer to inspect eligible properties, service policies and policyholders of hurricane property insurance, provide claim services, and perform any other duties as authorized by the fund for applicants to the fund and those insured by it;
  - (8) (A) Assess [annually] all licensed property [or] and casualty insurers the amounts which, together with the other assets of the fund, are sufficient to meet all necessary obligations of the fund. The assessment shall be made on the insurer's gross direct written premiums for property and casualty insurance in [Hawaii] this State for the preceding calendar year. The rate of assessment in a year in which a covered event has not occurred shall be 3.75 per cent and shall not include the insurer's gross direct written premiums for motor vehicle insurance in [Hawaii;] this State; provided that following a covered event, the rate of assessment may be increased to an amount not to exceed five per cent and may include the insurer's gross direct written premiums for motor vehicle insurance in [Hawaii following a covered event.] this State. This increase shall remain in effect until such time as all claims and other obligations, including but not limited to bonds and notes, arising out of a covered event shall have been fully discharged. An insurer authorized to provide comparable coverage under section 431P-10(b) shall be assessed an amount that excludes gross direct written premiums for property insurance in [Hawaii.] this State. The assessment for a year in which a covered event has not occurred shall be collected quarterly during each calendar year.
  - (B) In the event of a loss from a covered event the fund, in addition to the [annual] assessment in subparagraph (A), shall assess those insurers which [wrote property insurance coverage] acted as servicing facilities during the year immediately preceding the year of the covered event [in proportion to each insurer's share of the total property premium during that year]. The total assessment shall be based on the proportion of the gross direct written premiums from companion policies together with the total fund

gross direct written premium from policies of hurricane property insurance of the insurers that acted as servicing facilities to the total gross direct written premium from policies of property insurance written by all licensed property and casualty insurers whether acting as servicing facilities or not, and including any other insurer acting as a servicing facility together with the total fund gross direct written premium from policies of hurricane property insurance during the year immediately preceding the year of the covered event. Premiums from policies of property insurance under this subparagraph for losses in excess of coverage provided by the fund's policies of hurricane property insurance shall be considered non-assessable premium for purposes of determining this assessment. However, in no event shall the total assessment exceed \$500,000,000 in the aggregate[;] and be less than an amount established by the board; provided that a separate assessment shall be made for each covered event. [An insurer authorized to provide comparable coverage under section 431P-10(b) shall be exempted from this subparagraph.] The total assessment shall be allocated to each servicing facility based on the amount of the fund's gross direct written premiums for policies of hurricane property insurance serviced by each servicing facility in proportion to the total amount of the fund's gross direct written premiums for policies of hurricane property insurance. Assessments made under this subparagraph and those under subparagraph (A) in a year in which a covered event has occurred are due from each insurer based on assessment procedures established by the fund together with its servicing facilities to meet its obligations to policyholders in a timely manner.

- (C) [Each insurer shall be notified of any assessment not later than thirty days before it is due.] The fund may exempt or [differ,] defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by this jurisdiction;
- (9) Develop a program of incentives to encourage insurers to provide policies of hurricane property insurance in the event the commissioner authorizes the provision of comparable insurance pursuant to section 431P-10(b)[;] which may include, but are not limited to, exemption of the insurer's gross direct written premium for property insurance from the [annual] assessment pursuant to [[paragraph[]] (8)(A)[.];
- (10) Develop a credit [against the annual assessment] based on the difference between premiums written in 1993 and the premiums written in 1992 by each property insurer[;] against the assessment for gross direct written premiums written in 1993;
- (11) Develop procedures regarding policies written by unauthorized insurers comparable to the assessments, surcharges, and other contributions made by insurers authorized to do business in this State;
- (12) Accumulate reserves or funds, including the investment income thereon, to be used for paying expenses, making or repaying loans[, ] or other obligations of the fund, and paying valid claims for covered events insured by the fund; [and]
- (13) Collect and maintain statistical and other data as may be required by the commissioner[.];

- (14) Exempt mortgage transactions from payments of the special mortgage recording fee and provide for equitable assessment of the special mortgage recording fee, pursuant to rules adopted by the board. The adoption of or amendments to such rules shall be subject to chapter 91; and
- (15) Perform any and all acts reasonably necessary to carry out the purposes of this chapter.”

SECTION 3. Section 431P-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The fund shall adopt a plan of operation[,] and a manual of rules and rates necessary or suitable to ensure both the solvency and the reasonable and equitable administration of the fund. The adoption of or amendments to the plan of operation and manual of rules and rates shall not be subject to chapter 91, except that the policy forms for policies of hurricane property insurance shall be adopted pursuant to chapter 91.”

SECTION 4. Section 431P-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For the purpose of ascertaining the fund’s condition or compliance with this chapter, the commissioner shall examine the accounts, records, documents, and transactions of the fund at least once every three years commencing at the time the fund starts issuing policies of hurricane property insurance or more often if the commissioner deems advisable. The fund shall pay all reasonable and actually incurred expenses of the examination in accordance with section 431:2-306(b)[.]; provided that a detailed estimate of the expenses to be incurred shall be approved by the board prior to the examination. In the event the actual expenses incurred are in excess of ten per cent of the estimate, the commissioner shall communicate in writing to the board the reason for the excess expenses.”

SECTION 5. Section 431P-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Policies issued by the fund shall provide a maximum aggregate coverage of up to \$750,000 per risk on real property of one to four units used for residential purposes and \$500,000 per risk for real property used for business, commercial, [and] or industrial purposes and shall provide for a mandatory deductible. The deductible amount for residential [personal] property policies shall be the greater of \$1,000 or one per cent of the insured value or the greater of \$2,000 or two per cent of the insured value; provided that the board may establish higher deductible limits. The deductible amount for commercial property policies shall be the greater of \$5,000 or five per cent of the insured value or an amount equivalent to all the other [peril] perils deductibles<sup>1</sup> of the [underlying policy of property insurance;] companion policy; provided that the board may establish higher deductible limits.”

SECTION 6. Section 431P-16, Hawaii Revised Statutes, is amended to read as follows:

“**[“§431P-16[] Establishment of [hurricane reserve] trust [fund.] funds.** (a) [There is created in the treasury of the State the hurricane reserve trust fund to be administered by the Hawaii hurricane relief fund, into which shall be deposited] The fund shall establish outside the state treasury a hurricane reserve trust

fund and any other trust fund necessary to carry out the purposes of this chapter. Moneys deposited in the hurricane reserve trust fund or any other trust fund shall be held by the fund, as trustee, in a depository as defined in section 38-1 or according to a similar arrangement at the discretion of the board. These moneys may be invested and reinvested in accordance with the plan of operation. Disbursements from the trust funds shall not be subject to chapter 103D and shall be made in accordance with procedures adopted by the board.

(b) The hurricane reserve trust fund shall receive deposits of the special mortgage recording fee established by this chapter. The special mortgage recording fee shall be imposed on each mortgage and each amendment to a mortgage which increases the principal amount of the secured debt which is recorded in the bureau of conveyances of the State under chapter 502 or filed with the assistant registrar of the land court of the State under chapter 501.

The special mortgage recording fee shall be [in] an amount equal to one-tenth of one per cent of the stated principal amount of the debt secured by the mortgage or, in the case of an amendment of refinancing of a mortgage, an amount equal to one-tenth of one per cent of the amount of the increase of the stated principal amount of the debt[.], if any.

The special mortgage recording fee shall be in addition to any applicable fees under chapter 501 or 502. The special [fees] mortgage recording fee shall be collected by [escrow depositories licensed under chapter 449, or financial institutions authorized to engage in the escrow business, or persons and companies permitted to engage in limited escrow transactions under section 449-3. The special mortgage recording fees shall be collected prior to recordation of the mortgage with] the bureau of conveyances or the assistant registrar of the land court of the State and shall be deposited into the hurricane reserve trust fund. [The bureau of conveyances and the assistant registrar of the land court may also collect and transmit any special fees for deposit into the hurricane reserve trust fund.

(b) (c) The [[Hawaii hurricane relief]] fund shall implement the [annual assessment] assessments of all [licensed] property and casualty insurers as authorized by section 431P-5(b)(8)(A) and (B) and the proceeds from the assessments shall be deposited into the hurricane reserve trust fund.

[(c)] (d) If the [[Hawaii hurricane relief]] fund offers to issue policies of hurricane property insurance, the premiums for [such] the policies shall be deposited into the hurricane reserve trust fund.

[(d)] (e) Should the moneys in the hurricane reserve trust fund be insufficient to pay claims arising out of a covered event, the [[Hawaii hurricane relief]] fund is authorized to levy a surcharge not to exceed seven and one-half per cent a year on premiums charged for [policies issued by all licensed property and casualty insurers.] all property and casualty insurance policies issued for risks insured in this State. These moneys may be used for purposes as directed by the board, including but not limited to the payment of [debt service] interest and principal on [a contract of financial reinsurance.] reinsurance or other similar financial arrangements and bonds or notes issued pursuant to this chapter. The formula to calculate the amount and period of the surcharge and the procedures and methodology for payment of claims during periods of insufficiency of moneys for such purpose shall be provided in the plan of operation. The amount and reason for any surcharge made pursuant to this subsection shall be separately stated on any billing sent to an insured. The surcharge shall not be considered premiums for any other purpose, including the computation of gross premium tax or the determination of agents' commissions.

(f) Any proceeds, experience refunds, or other return funds under reinsurance or other similar financial arrangements shall be deposited into the hurricane reserve trust fund.

[(e)] (g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds or notes issued pursuant to this [Act] chapter loaned by the director [of finance] to the Hawaii hurricane relief fund, and [such] other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund.

[(f)] (h) Moneys in the hurricane reserve trust fund shall be expended by the [[Hawaii hurricane relief[]] fund and used solely for the purposes of this chapter.

[(g)] (i) Upon dissolution of the [[Hawaii hurricane relief[]] fund, the net moneys [of] in the hurricane reserve trust fund shall revert to the state general fund[.], after any payments by the fund on behalf of licensed property and casualty insurers or the State that are required to be made pursuant to any federal disaster insurance program enacted to provide insurance or reinsurance for hurricane risks. In the event such moneys are paid on behalf of licensed property and casualty insurers, payment shall be made in proportion to the premiums from policies of hurricane property insurance serviced by the insurers in the twelve months prior to dissolution of the fund.”

SECTION 7. Section 10 of Act 339, Session Laws of Hawaii 1993, is amended by amending subsection (d) to read as follows:

“(d) The director of finance is authorized to issue reimbursable general obligation bonds in the principal amount of \$200,000,000, or so much thereof as may be requested and deemed necessary by the commissioner for the purposes of the Hawaii hurricane relief fund, and the same sum is appropriated for fiscal [year 1993–1994] years 1994–1995, 1995–1996, and 1996–1997 for deposit into the hurricane reserve trust fund. The commissioner, upon the commissioner’s determination that it is advisable to transfer funds from the hurricane reserve trust fund, shall reimburse the state general fund for payment of debt service on reimbursable general obligation bonds authorized and issued under this section.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 29, 1995.)

#### Note

1. Prior to amendment “deductible” appeared here.

## ACT 18

H.B. NO. 14-S

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I. GENERAL PROVISIONS

SECTION 1. This Act shall be known as the Judiciary Appropriations Act of 1995.

SECTION 2. Unless otherwise clear from the context, as used in this Act:



(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of Financing," or "MOF," means the source from which funds are appropriated or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

|   |                              |
|---|------------------------------|
| A | General fund                 |
| B | Special funds                |
| C | General obligation bond fund |
| N | Other federal funds          |

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

## PART II. PROGRAM APPROPRIATIONS

SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1995, and ending June 30, 1997. The total expenditures and the number of permanent positions established in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

### PROGRAM APPROPRIATIONS

| ITEM NO.            | PROG. ID           | PROGRAM                  | EXPENDING AGENCY | APPROPRIATIONS         |       |                        |       |
|---------------------|--------------------|--------------------------|------------------|------------------------|-------|------------------------|-------|
|                     |                    |                          |                  | FISCAL YEAR 1995-96    | M O F | FISCAL YEAR 1996-97    | M O F |
| The Judicial System |                    |                          |                  |                        |       |                        |       |
| 1.                  | JUD101             | COURTS OF APPEAL         |                  |                        |       |                        |       |
|                     | OPERATING          |                          | JUD              | 78.00*<br>4,552,255A   |       | 78.00*<br>4,552,255A   |       |
| 2.                  | JUD111             | CIRCUIT COURTS           |                  |                        |       |                        |       |
|                     | OPERATING          |                          | JUD              | 504.50*<br>25,016,905A |       | 504.50*<br>25,016,905A |       |
| 3.                  | JUD112             | FAMILY COURTS            |                  |                        |       |                        |       |
|                     | OPERATING          |                          | JUD              | 426.00*<br>26,292,426A |       | 426.00*<br>26,242,426A |       |
|                     |                    |                          | JUD              | 100,000B               |       | 100,000B               |       |
| 4.                  | JUD121             | DISTRICT COURTS          |                  |                        |       |                        |       |
|                     | OPERATING          |                          | JUD              | 514.50*<br>17,482,409A |       | 514.50*<br>17,397,668A |       |
|                     |                    |                          | JUD              | 53.00*<br>1,919,649B   |       | 53.00*<br>1,919,649B   |       |
| 5.                  | JUD201             | ADMIN. DIRECTOR SERVICES |                  |                        |       |                        |       |
|                     | OPERATING          |                          | JUD              | 249.00*<br>14,878,060A |       | 249.00*<br>14,705,460A |       |
|                     | INVESTMENT CAPITAL |                          | JUD              | 2,359,000C             |       |                        | C     |

**PART III. PROGRAM PROVISIONS**

**SECTION 4.** Provided that of the general fund appropriation for family court (JUD 112), the sum of \$50,000 for fiscal year 1995–96 shall be expended for the repair and maintenance of the existing juvenile detention facility; provided further that a report stating what repairs and maintenance were completed shall be submitted to the legislature on or before June 30, 1996.

**SECTION 5.** Provided that of the general fund appropriation for family court (JUD 112), a minimum sum of \$369,300 designated for purchase of service for each fiscal year of the fiscal biennium, shall be expended for domestic violence legal hotline and the domestic violence clearinghouse services; and provided further that a status report stating the date and the amount that was provided to the domestic violence legal hotline and the domestic violence clearinghouse shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

**SECTION 6.** Provided that of the general fund appropriation for district court (JUD 121), the sum of \$36,604 for fiscal year 1995–96 and the sum of \$27,804 for fiscal year 1996–97 shall be expended for the establishment of (1.00) district court clerk III for the 5th circuit; and provided further that the additional duties and responsibilities of this position will be to collect current and outstanding fines.

**SECTION 7.** Provided that of the general fund appropriation for administrative director services (JUD 201), the sum of \$172,600 for fiscal year 1995–96 shall be expended to purchase security screening and detection equipment for all courts statewide; and provided further that a status report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.

**SECTION 8.** Provided that whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for operating purposes; provided further that no transfer shall be made to implement any collective bargaining contract signed after this legislature adjourns sine die; and provided further that the chief justice shall submit to the legislature, no later than twenty days prior to the convening of the 1996 and 1997 regular sessions, reports of all transfers of funds and positions as of December 31 and June 30 of each fiscal year of the fiscal biennium 1995–1997.

**SECTION 9.** Provided that if the chief justice, or any agency, or any government unit secures federal funds or other property under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice, or the agency with the chief justice's approval, shall have the power to enter into the undertaking with the federal government, private organization or individual; and provided further that while most federal aid allocations are known and state matching funds are provided in this Act, in instances where programs for which federal-state cost sharing is not yet determined, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

**SECTION 10.** Provided that the judiciary is authorized to transfer savings from its general fund appropriation to the driver education special fund to accommo-

date any temporary cash flow deficits; and provided further, that a report shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

#### PART IV. CAPITAL IMPROVEMENTS PROGRAM PROJECTS

SECTION 11. The sum of \$2,359,000 appropriated or authorized in Part II of this Act for capital improvements program projects shall be expended by the judiciary for the projects listed below; provided that several related or similar projects may be combined into a single project, if a combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sums specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this Part are in thousands of dollars.)

| CAPITAL IMPROVEMENT PROJECTS  |             |               |                  | APPROPRIATIONS (IN 000's) |       |                     |       |
|---|-------------|---------------|------------------|---------------------------|-------|---------------------|-------|
| ITEM NO.  | CAPITAL NO. | PROJECT TITLE | EXPENDING AGENCY | FISCAL YEAR 1995-96       | M O F | FISCAL YEAR 1996-97 | M O F |
| The Judicial System   |             |               |                  |                           |       |                     |       |
| JUD201 - ADMIN. DIRECTOR SERVICES   |             |               |                  |                           |       |                     |       |
| 1. FAMILY COURT CENTER, KAPOLEI, OAHU   |             |               |                  |                           |       |                     |       |
| PLANS, LAND ACQUISITION, AND DESIGN FOR THE FAMILY COURT CENTER AT KAPOLEI, OAHU.                                       |             |               |                  |                           |       |                     |       |
|   |             | PLANS         |                  | 135                       |       |                     |       |
|   |             | LAND          |                  | 9                         |       |                     |       |
|   |             | DESIGN        |                  | 1,700                     |       |                     |       |
|   |             | TOTAL FUNDING | JUD              | 1,844                     | C     |                     |       |
| 2. JUVENILE DETENTION CENTER, KAPOLEI, OAHU   |             |               |                  |                           |       |                     |       |
| PLANS, LAND ACQUISITION, AND DESIGN FOR THE JUVENILE DETENTION CENTER AT KAPOLEI, OAHU.                                 |             |               |                  |                           |       |                     |       |
|   |             | PLANS         |                  | 14                        |       |                     |       |
|   |             | LAND          |                  | 4                         |       |                     |       |
|   |             | DESIGN        |                  | 397                       |       |                     |       |
|   |             | TOTAL FUNDING | JUD              | 415                       | C     |                     |       |
| 3. ARCHITECTURAL BARRIER REMOVAL FOR JUDICIARY BUILDINGS, STATEWIDE   |             |               |                  |                           |       |                     |       |
| PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMOVAL OF ARCHITECTURAL BARRIERS IN JUDICIARY BUILDINGS, STATEWIDE. |             |               |                  |                           |       |                     |       |
|   |             | PLANS         |                  | 5                         |       |                     |       |
|   |             | DESIGN        |                  | 25                        |       |                     |       |
|   |             | CONSTRUCTION  |                  | 60                        |       |                     |       |
|   |             | EQUIPMENT     |                  | 10                        |       |                     |       |
|   |             | TOTAL FUNDING | JUD              | 100                       | C     |                     |       |

PART V. CAPITAL IMPROVEMENTS PROGRAM PROVISIONS

SECTION 12. Provided that of the general obligation bond fund appropriation for administrative director services (JUD 201), the sum of \$1,844,000 for fiscal year 1995–1996 shall be used for plans, land acquisition, and design for the family court center; provided further that the location of the facility shall be parcels number 4 and number 5 at Kapolei, Oahu as designated by the state of Hawaii/Campbell Estate agreements dated April 11, 1989 and September 14, 1994; and provided further that no funds shall be expended unless the state of Hawaii receives title of the land in fee simple terms at no cost and with no contingencies, encumbrances, or deed restrictions other than the land be used for the legislative intent of this section.

SECTION 13. Provided that of the general obligation bond fund appropriation for administrative director services (JUD 201), the sum of \$415,000 for fiscal year 1995–1996 shall be used for plans, land acquisition, and design for the juvenile detention center; provided further that the location of the facility shall be parcels number 4 and number 5 at Kapolei, Oahu as designated by the state of Hawaii/Campbell Estate agreements dated April 11, 1989 and September 14, 1994; and provided further that no funds shall be expended unless the state of Hawaii receives title of the land in fee simple terms at no cost and with no contingencies, encumbrances, or deed restrictions other than the land be used for the legislative intent of this section.

SECTION 14. Act 277, Session Laws of Hawaii 1993, section 16, as amended and renumbered by Act 254, Session Laws of Hawaii 1994, section 5, is amended by amending JUD 201-1 to read:

|   |     |               |
|---|-----|---------------|
| “1. KOOLAUPOKO DISTRICT COURT, OAHU     |     |               |
| PLANS, LAND ACQUISITION, AND DESIGN FOR |     |               |
| THE KOOLAUPOKO DISTRICT COURT.          |     |               |
| PLANS                                   |     | $\frac{1}{1}$ |
| LAND                                    |     |               |
| DESIGN                                  |     |               |
| TOTAL FUNDING                           | JUD | [590] 588     |
|   |     | 590C C”       |

PART VI. ISSUANCE OF BONDS

SECTION 15. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part IV of this Act; provided that the sum total of the general obligation bonds so issued shall not exceed \$2,359,000.

PART VII. SPECIAL PROVISIONS

SECTION 16. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvements program projects authorized in Part II and listed in Part IV of this Act shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all appropriations made for fiscal biennium 1995–1997 which are unencumbered as of June 30, 1998, shall lapse as of that date.

SECTION 17. The judiciary is authorized to delegate to other state or county agencies the planning, acquisition of land, design, construction, and equipment of

any capital improvements program project when it is determined by the judiciary to be advantageous to do so.

SECTION 18. The chief justice may authorize reduction in the scope of the project when warranted by changing conditions such as reduction in a specific target population; provided that the scope of a project shall not be reduced solely to accommodate the amount of available funding.

SECTION 19. The chief justice shall determine when and the manner in which authorized capital improvements program projects shall be initiated; provided that the chief justice shall from time to time inform the governor of specific amounts required for the projects; and provided further that the governor shall provide for those amounts through the issuance of bonds authorized in Part VI of this Act.

SECTION 20. Any law or any provision to the contrary notwithstanding, the chief justice may supplement funds for any cost element for a capital improvements program project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act or by any other prior or future act which have not lapsed, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriation for that project.

## **PART VII. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

SECTION 21. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 22. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice is authorized to correct the error. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 23. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## **ACT 19**

**H.B. NO. 15-S**

A Bill for an Act Relating to the Office of Hawaiian Affairs Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to appropriate funds for the biennial budget of the office of Hawaiian affairs.

SECTION 2. Unless otherwise clear from the context, as used in this Act:  
(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the office of Hawaiian affairs followed by a designated number for the program.

(b) "Means of Financing," or "MOF," means the source from which funds are appropriated or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

|   |               |
|---|---------------|
| A | General fund  |
| B | Special funds |

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized, as the case may be, from the sources of funding specified to the office of Hawaiian affairs for the fiscal biennium beginning July 1, 1995, and ending June 30, 1997. The total general fund expenditures and the number of permanent positions established in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided elsewhere in this Act.

#### PROGRAM APPROPRIATIONS

|                            |                                    |         |                  | APPROPRIATIONS      |       |                     |       |
|----------------------------|------------------------------------|---------|------------------|---------------------|-------|---------------------|-------|
| ITEM NO.                   | PROG. ID                           | PROGRAM | EXPENDING AGENCY | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
| Office of Hawaiian Affairs |                                    |         |                  |                     |       |                     |       |
| 1.                         | OHA100 - POLICY AND ADMINISTRATION |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 11.00*              |       | 11.00*              |       |
|                            |                                    |         |                  | 567,272A            |       | 567,272A            |       |
|                            |                                    |         | OHA              | 11.00*              |       | 11.00*              |       |
|                            |                                    |         |                  | 569,675B            |       | 569,675B            |       |
| 2.                         | OHA101 - ADMINISTRATIVE SERVICES   |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 5.00*               |       | 5.00*               |       |
|                            |                                    |         |                  | 510,672A            |       | 510,672A            |       |
|                            |                                    |         | OHA              | 5.00*               |       | 5.00*               |       |
|                            |                                    |         |                  | 515,119B            |       | 515,119B            |       |
| 3.                         | OHA102 - PUBLIC INFORMATION        |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 2.25*               |       | 2.25*               |       |
|                            |                                    |         |                  | 225,150A            |       | 225,150A            |       |
|                            |                                    |         | OHA              | 2.25*               |       | 2.25*               |       |
|                            |                                    |         |                  | 227,001B            |       | 227,001B            |       |
| 4.                         | OHA103 - HEALTH AND HUMAN SERVICES |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 1.25*               |       | 1.25*               |       |
|                            |                                    |         |                  | 382,891A            |       | 382,891A            |       |
|                            |                                    |         | OHA              | 1.25*               |       | 1.25*               |       |
|                            |                                    |         |                  | 384,877B            |       | 384,877B            |       |
| 5.                         | OHA104 - PLANNING AND RESEARCH     |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 3.75*               |       | 3.75*               |       |
|                            |                                    |         |                  | 263,760A            |       | 263,760A            |       |
|                            |                                    |         | OHA              | 3.75*               |       | 3.75*               |       |
|                            |                                    |         |                  | 279,460B            |       | 279,460B            |       |
| 6.                         | OHA105 - CULTURE                   |         |                  |                     |       |                     |       |
|                            | OPERATING                          |         | OHA              | 4,599A              |       | 4,599A              |       |
|                            |                                    |         |                  | 3.00*               |       | 3.00*               |       |

## PROGRAM APPROPRIATIONS

| ITEM NO. | PROG. ID  | PROGRAM                    | EXPENDING AGENCY | APPROPRIATIONS      |       |                     |       |
|----------|-----------|----------------------------|------------------|---------------------|-------|---------------------|-------|
|          |           |                            |                  | FISCAL YEAR 1995-96 | M O F | FISCAL YEAR 1996-97 | M O F |
|          |           |                            | OHA              | 249,897B            |       | 249,897B            |       |
| 7.       | OHA106    | GOVERNMENT AFFAIRS         |                  |                     |       |                     |       |
|          | OPERATING |                            | OHA              | 1.25*               |       | 1.25*               |       |
|          |           |                            | OHA              | 61,832A             |       | 61,832A             |       |
|          |           |                            | OHA              | 1.25*               |       | 1.25*               |       |
|          |           |                            | OHA              | 87,029B             |       | 87,029B             |       |
| 8.       | OHA107    | LAND AND NATURAL RESOURCES |                  |                     |       |                     |       |
|          | OPERATING |                            | OHA              | 2.50*               |       | 2.50*               |       |
|          |           |                            | OHA              | 582,138A            |       | 582,138A            |       |
|          |           |                            | OHA              | 2.50*               |       | 2.50*               |       |
|          |           |                            | OHA              | 584,044B            |       | 584,044B            |       |
| 9.       | OHA108    | ECONOMIC DEVELOPMENT       |                  |                     |       |                     |       |
|          | OPERATING |                            | OHA              | 5.50*               |       | 5.50*               |       |
|          |           |                            | OHA              | 493,675A            |       | 493,675A            |       |
|          |           |                            | OHA              | 5.50*               |       | 5.50*               |       |
|          |           |                            | OHA              | 507,451B            |       | 507,451B            |       |
| 10.      | OHA109    | EDUCATION                  |                  |                     |       |                     |       |
|          | OPERATING |                            | OHA              | 1.50*               |       | 1.50*               |       |
|          |           |                            | OHA              | 345,815A            |       | 345,815A            |       |
|          |           |                            | OHA              | 1.50*               |       | 1.50*               |       |
|          |           |                            | OHA              | 439,430B            |       | 439,430B            |       |
| 11.      | OHA110    | HOUSING                    |                  |                     |       |                     |       |
|          | OPERATING |                            | OHA              | 1.75*               |       | 1.75*               |       |
|          |           |                            | OHA              | 58,894A             |       | 58,894A             |       |
|          |           |                            | OHA              | 1.75*               |       | 1.75*               |       |
|          |           |                            | OHA              | 112,840B            |       | 112,840B            |       |

SECTION 4. Provided that the general fund appropriations in section 3 of this Act shall be expended by the office of Hawaiian affairs.

SECTION 5. Provided that of the funds appropriated for health and human services (OHA 103), the sum of \$298,000 in general funds and \$298,000 in special funds for fiscal year 1995-96 and the sum of \$298,000 in general funds and \$298,000 in special funds for fiscal year 1996-97 shall be used for services on a fee work contracted to Alu Like, Inc; and provided further that any general funds not used for this purpose shall lapse back into the general fund at the end of each respective fiscal year.

SECTION 6. Provided that of the funds appropriated for health and human services (OHA 103), the sum of \$40,000 in general funds and \$40,000 in special funds for fiscal year 1995-96 and the sum of \$40,000 in general funds and \$40,000 in special funds for fiscal year 1996-97 shall be used for services on a fee work contracted to the Waianae diet program; and provided further that any general funds not used for this purpose shall lapse back into the general fund at the end of each respective fiscal year.

SECTION 7. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chairperson of the trustees for the office of

Hawaiian affairs is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 8. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 20

H.B. NO. 16-S

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I

SECTION 1. The legislature finds that it is in the public interest to strengthen the State's economic future by encouraging the development of diversified agriculture processing activities that provide important and needed added value to expand the industry's viability beyond production alone. The legislature further finds that Kerr Pacific Corp., dba HFM (Hawaiian Flour Mills), generates \$12,000,000 in sales of locally-produced flour serving customers in Hawaii, Guam, Micronesia, and Japan, and would be able to utilize its flour by-product (known as "millfeed") as a low-cost source of protein for animal feed in Hawaii, thereby providing lower cost feed to farmers who now must purchase from out-of-state sources.

The legislature further finds that Kerr Pacific Corp., dba HFM, may be assisted through the issuance of special purpose revenue bonds, because it is a processing enterprise pursuant to part IV, chapter 39A, Hawaii Revised Statutes.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part IV, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$5,000,000, for the purpose of assisting Kerr Pacific Corp., dba HFM, in financing the establishment of a feed milling operation. The legislature finds and determines that the activity and facilities of Hawaiian Flour Mills constitute a project as defined in part IV, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a processing enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part IV, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist processing enterprises.

SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2000.

### PART II

SECTION 5. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not apply to the following persons:



- (1) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (2) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (3) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (4) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended, as well as that of operating a prepaid legal services plan, as well as that of operating or managing a homeless facility, or any other program for the homeless authorized under chapter 358D;
- (5) Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
- (6) Hospitals, infirmaries, and sanitarium;
- (7) Cooperative associations incorporated under chapter 421 [or 422] or Code section 521 cooperatives which fully meet the requirements of section 421-23 [or 422-33], except Code section 521 cooperatives need not be organized in Hawaii; provided that:
  - (A) The exemption shall apply only to the gross income derived from activities which are pursuant to purposes and powers authorized by chapter 421 [or 422], except those provisions pertaining to or requiring corporate organization in Hawaii do not apply to Code section 521 cooperatives;
  - (B) The exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable; and
  - (C) As used in this paragraph, "section 521 cooperatives" mean associations which qualify as a cooperative under section 521 (with respect to exemption of farmers' cooperatives from tax) of the Internal Revenue Code of 1986, as amended;
- (8) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;
- (9) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the

- income is to be used for or in the furtherance of the exempt activities of such persons); and
- (10) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations.”

### PART III

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval, except that section 5 shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 21

H.B. NO. 18-S

A Bill for an Act Making an Appropriation to Improve Effectiveness of the Nonpoint Source Pollution Control Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Nonpoint source (water) pollution (NPS) is polluted runoff that cannot be traced to a single identifiable source. Nonpoint source pollution is the major water quality problem in Hawaii. Currently, the State has two different components to deal with nonpoint source pollution. The first component is the comprehensive, statewide nonpoint source pollution control program being developed through the office of state planning. The second component is the Hawaii nonpoint source pollution management and control program in the department of health, which is concerned primarily with funding demonstration and state public education projects. The mission of these programs is to protect and improve the quality of water resources for the enjoyment of, and for use by, the people of Hawaii through the prevention and reduction of nonpoint source pollution and the balancing of health, environmental, economic, and social concerns.

The federal Coastal Zone Act Reauthorization Amendments of 1990 require each coastal state to develop a comprehensive, statewide nonpoint source pollution control program, and provides federal funds to each of these states for the development of this program, subject to a dollar-for-dollar state match. In Hawaii this program is being developed through the coastal zone management program in the office of state planning.

The Hawaii nonpoint source pollution management and control program in the department of health began in 1988 as a result of the 1987 federal Clean Water Quality Act. The program funds demonstration and implementation projects that control nonpoint source pollution, as well as public education activities, and is in turn funded primarily through a federal Clean Water Act section 319(h) grant from the United States Environmental Protection Agency (EPA), which requires a forty per cent state match of the total funds.

According to section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990, failure to develop a comprehensive, statewide nonpoint source pollution control program by 1996 may result in fiscal penalties to both the coastal zone management program in the office of state planning and the department of health's section 319(h) grant-funded program.

The purpose of this Act is to appropriate funds for the development of a comprehensive, statewide nonpoint source pollution control program in the office of state planning so the State can receive the maximum amount of federal matching funds available for this program.

SECTION 2. The federal Coastal Zone Act Reauthorization Amendments of 1990 require each coastal state to develop a comprehensive nonpoint source pollution control program, and provide federal funds to each of these states for the development of a statewide, coastal nonpoint source pollution control program, subject to a dollar-for-dollar state match. The match can be attained through direct state funding or in-kind matches. According to the federal statute, these states are required to develop this nonpoint source pollution control program to continue to receive all available federal Coastal Zone Management funds.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1995–1996, for the office of state planning to develop a comprehensive, statewide nonpoint source pollution control program.

The sum appropriated shall be expended by the office of the governor for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

**ACT 22**

H.B. NO. 19-S

A Bill for an Act Making an Appropriation for Compensation of Criminal Injuries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,218,555.29, or so much thereof as may be necessary, for fiscal year 1995–1996, for the purpose of compensating certain persons or their providers of services pursuant to chapter 351, Hawaii Revised Statutes.

SECTION 2. The sum appropriated shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission.

SECTION 3. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 23

H.B. NO. 20-S

A Bill for an Act Relating to the Medical Services Excise Tax Credit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-55.9, Hawaii Revised Statutes, is amended to read as follows:

**“§235-55.9 Medical services excise tax credit.** (a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for Hawaii state individual income tax purposes, may claim a medical services excise tax credit against the resident taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for Hawaii state individual income tax purposes may claim this credit.

(b) The medical services excise tax credit shall be [four per cent of qualified medical expenses paid by the resident individual during the taxable year plus] six per cent of the nursing facilities expenses paid by or for the resident individual during the taxable year. [For individual resident taxpayers residing for more than two hundred days of the taxable year in the aggregate in a county in which the county general excise and use tax surcharge is in effect, the medical services excise tax credit shall be four and one-half per cent of qualified medical expenses paid by the resident individual during the taxable year plus six per cent of nursing facilities expenses paid by the resident individual during the taxable year. The portion of the tax credit attributable to medical expenses claimed on each individual income tax return shall not exceed:

- (1) \$200;
- (2) \$400 for a resident individual sixty-five years of age or over; or
- (3) \$600 for a resident individual and spouse both sixty-five years of age or over.

The preceding limitations shall not apply to the portion of the credit attributable to nursing facilities expenses; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.]

(c) For the purposes of this section[, the term “qualified medical expenses” is defined to include those medical expenses paid for the taxpayer or the taxpayer’s dependent allowable as deductions for income tax purposes under section 213 (with respect to medical, dental, etc., expenses) of the Internal Revenue Code; provided that the medical expense was subject to the imposition and payment of the general excise tax under chapter 237. “Qualified medical expenses” shall not include the following:

- (1) Capital improvements; or
- (2) Prescription drugs or prosthetic devices exempt under section 237-24.3(7).

“Nursing” [“nursing facility expenses” are amounts actually paid by the taxpayer for services provided to the taxpayer or to any individual who bears a relationship to the taxpayer as described in section 152(a) (with respect to dependent defined) of the Internal Revenue Code by a nursing facility licensed under section 321-9 and 321-11 and any intermediate care facility for mentally retarded persons

under sections 321-9 and 321-11; provided that the nursing facility expense was subject to the imposition and payment of the tax imposed by chapter 346E.

The amount of [medical expenses and] nursing facility expenses paid during the taxable year shall not be reduced by any insurance reimbursement.

(d) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(e) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for credit made under this section and the director may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(f) [If the tax credit claimed by an individual includes qualified medical expenses calculated at the rate of four and one-half per cent, and the individual resides in a county in which the county general excise and use tax surcharge is not in effect, or if the tax credit that includes qualified medical expenses calculated at the rate of four and one-half per cent is claimed in a county that has a county general excise and use tax surcharge in effect by an individual who has resided in that county for not more than two hundred days of the taxable year in the aggregate, there shall be added to and become part of the tax liability of the individual:

- (1) The amount of the tax credit claimed under this section multiplied by three; or
- (2) Ten per cent of the income tax liability for the taxable year for which the individual income tax return is being filed,

whichever is greater.]

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(g) This section shall not be effective after [December 31, 1996.] June 30, 1997."

SECTION 2. The provisions of this Act shall supersede any amendment or repeal of section 235-55.9, Hawaii Revised Statutes, in any Act enacted by the regular session of 1995, as though no amendment or repeal of section 235-55.9, Hawaii Revised Statutes, were enacted in any Act of the regular session of 1995 whether the effective date of any such Act is before or after the effective date of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved June 29, 1995.)

## ACT 24

S.B. NO. 1-S

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The department of human services administers the food stamp program and aid to families with dependent children (AFDC) program. These programs in thirty-five other states are being implemented by an electronic benefit transfer (EBT) system. The EBT system's objectives are to:

- (1) Reduce fraud;
- (2) Improve services to clients; and
- (3) Improve overall efficiency of programs administered.

The success of EBT programs in other states indicates that a federal mandate to require the EBT system of administration may be imminent. The legislature finds that it is prudent for the State to anticipate federal mandates.

The transition from the current system to implementing the EBT system will require careful planning. The department of human services will have to contract with consultants to conduct a feasibility study to determine the costs and potential cost savings. If an EBT system is determined to be feasible, the next steps are the development of a request for proposals (RFP), and an advanced planning document. The federal government will match all funds appropriated that relate to planning efforts. Further steps include the issuance of the RFP, the selection of a provider, and the implementation of the EBT system.

The purpose of this Act is to authorize the department of human services to plan for and to implement an EBT system. This Act also appropriates funds for these purposes.

SECTION 2. The department of human services is authorized to plan and implement an EBT system for the food stamp program and the AFDC program.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1995-1996, to:

- (1) Conduct a study of the feasibility of implementing in Hawaii an electronic benefit transfer system for the payment of certain public assistance benefits. This study shall include the development of a request for proposals and an advanced planning document; and
- (2) Implement the electronic benefit transfer system,

to be matched by the federal government.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

## ACT 25

S.B. NO. 2-S

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that rehabilitation programs that educate and prepare persons awaiting trial, after conviction, who are incarcerated or on parole, are critical to the future well-being of the community. In addition, prompt handling of drug cases and more intensive judicial involvement with monitoring will help ensure the effectiveness of the system.

The purpose of this Act is to address the issue of prison overcrowding at a time when budget considerations prevent investment in new prison facilities by:

- (1) Establishing a drug court at the state circuit court level;
- (2) Implementing a comprehensive schedule of alternatives to incarceration that do not undermine public safety; and
- (3) Providing rehabilitative and assistance programs for arrestees and the incarcerated.

### PART I: INTERMEDIATE SANCTIONS

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§353- Intermediate sanctions; eligibility; criteria and conditions.** (a) The department of public safety shall implement alternative programs that place, control, supervise, and treat selected offenders in lieu of incarceration.

(b) Pretrial detainees may be considered for placement in alternative programs if they:

- (1) Have been admitted to bail and are not charged with a non-probationable class A felony; and
- (2) Have not, within the previous five years, been convicted of a crime involving serious bodily injury or substantial bodily injury as defined by chapter 707.

(c) Sentenced offenders and other committed persons may be considered for placement in alternative programs as a condition of furlough or release, provided that the person is otherwise eligible for or has been granted furlough or release pursuant to section 353-8 or 353-17.

(d) As used in this section, “alternative programs” mean programs which, from time to time, are created and funded by legislative appropriation or federal grant naming the department of public safety or one of its operating agencies as the expending agency and which are intended to provide an alternative to incarceration. Alternative programs may include:

- (1) Home detention, curfew using electronic monitoring and surveillance, or both;
- (2) Supervised release, graduated release, furlough, and structured educational or vocational programs;
- (3) A program of regimental discipline pursuant to section 706-605.5; and
- (4) Similar programs created and designated as alternative programs by the legislature or the director of public safety for inmates who do not pose significant risks to the community.”

SECTION 3. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§353- Intermediate sanctions; eligibility; criteria and conditions. (a)**

The Hawaii paroling authority shall implement alternative programs that place, control, supervise, and treat selected parolees in lieu of incarceration.

(b) The authority may impose participation in alternative programs as a condition of parole or as an amended condition of parole.

(c) As used in this section, “alternative programs” mean programs which, from time to time, are created and funded by legislative appropriation or federal grant naming the Hawaii paroling authority or the department of public safety on behalf of the Hawaii paroling authority as the expending agency and which are intended to provide an alternative to incarceration. Alternative programs may include:

- (1) Home detention, curfew using electronic monitoring and surveillance, or both;
- (2) Intensive supervision, residential supervision, work-furlough, and structured educational or vocational programs;
- (3) Therapeutic residential and nonresidential programs; and
- (4) Similar programs created and designated as alternative programs by the legislature, the chairperson of the Hawaii paroling authority, or the director of public safety for parolees who do not pose significant risks to the community.”

SECTION 4. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§706- Intermediate sanctions; eligibility; criteria and conditions.**

(1) The judiciary shall implement alternative programs that place, control, supervise, and treat selected defendants in lieu of a sentence of incarceration.

(2) Defendants may be considered for sentencing to alternative programs if they:

- (a) Have not been convicted of a non-probationable class A felony; and
- (b) Have not, within the previous five years, been convicted of a crime involving serious bodily injury or substantial bodily injury as defined by chapter 707.

(3) A defendant may be sentenced by a district, family, or circuit court judge to alternative programs.

(4) As used in this section, “alternative programs” mean programs which, from time to time, are created and funded by legislative appropriation or federal grant naming the judiciary or one of its operating agencies as the expending agency and which are intended to provide an alternative to incarceration. Alternative programs may include:

- (a) House arrest, or curfew using electronic monitoring and surveillance, or both;
- (b) Drug court programs for defendants with assessed alcohol or drug abuse problems, or both;
- (c) Therapeutic residential and non-residential programs;
- (d) A program of regimental discipline pursuant to section 706-605.5; and
- (e) Similar programs created and designated as alternative programs by the legislature or the administrative director of the courts for qualified defendants who do not pose significant risks to the community.”

## **PART II: DRUG COURT**

SECTION 5. The legislature finds that, due to the dramatic increase in substance abuse cases and the resulting increase in the number of detained and



incarcerated individuals with drug abuse problems, alternatives to incarceration and to dealing with the drug-abusing offender must be implemented. The institution of the Hawaii drug court is seen as one element that may be added to Hawaii's criminal justice system that may offer substance abusers an effective means of addressing their abuse problems while being held accountable for their progress in treatment through regular contact with the drug court. The goal of the drug court is to enhance the effectiveness of the criminal justice system and its substance abuse delivery system and treatment through:

- (1) Early intervention and increased diversion from incarceration;
- (2) Individualized assessment of drug problems;
- (3) Increased access to a continuum of drug treatment options, from assessment for appropriate treatment that will include a spectrum of solutions from drug education to residential substance abuse treatment, and after care to increased drug testing by urinalysis; and
- (4) Judicial tracking and increased judicial involvement in monitoring treatment participation with the use of incentives for compliance and graduated sanctions for noncompliance.

The drug court would consist of one of the existing first circuit court judges, to be selected by the chief justice. The activities of the drug court judge will be supported by related case management and auxiliary and support services, treatment, urinalysis, and intensive supervision mechanisms.

Successful intervention by the drug court is expected to have long-term influence upon prison overcrowding, probation and parole workloads, and case flow through the judicial system.

The purpose of this part is to authorize the establishment of temporary positions for the Hawaii drug court.

**SECTION 6.** The judiciary is authorized to establish, at the stated levels, the following temporary positions for the purpose of implementing section 5 for each fiscal year 1995–1996 and 1996–1997, and to be funded from the appropriation authorized in section 22:

- (1) One full-time equivalent (1.0 FTE) social worker V position (\$36,616);
- (2) Five full-time equivalent (5.0 FTE) social worker IV positions (\$32,548 each); and
- (3) One full-time equivalent (1.0 FTE) circuit court clerk II position (\$28,344).

### **PART III: INTEGRATED COMMUNITY SANCTIONS PROGRAM**

**SECTION 7.** The legislature finds that alternatives to incarceration that do not undermine public safety include intensive supervision of appropriate probationers that was proven effective as a pilot project in the first circuit court several years ago. The integrated community sanctions program will implement this concept through structured intermediate sanctions established by the probation offices of the circuit courts for nonviolent offenders. Targeted offenders include probation violators, who may not qualify under a drug diversion program, and sentenced felons or misdemeanants who commit nonviolent property offenses. The program will provide community sanctions of house arrest, intensive supervision, and curfew using electronic monitoring devices. To improve surveillance, probation supervision operations will be decentralized, using existing community sites such as rural district court facilities. On Oahu, two teams of two officers each will:

- (1) Be dedicated to a specific geographic area;
- (2) Supervise approximately thirty-five offenders per team; and
- (3) Conduct late evening surveillance as required.

The purpose of this part is to authorize the establishment of temporary positions for the integrated community sanctions program.

SECTION 8. The judiciary is authorized to establish, at the stated levels, the following temporary positions for the purpose of implementing section 7 for each fiscal year 1995–1996 and 1996–1997:

- (1) First circuit:
  - (a) One full-time equivalent (1.0 FTE) social worker V position (\$36,616);
  - (b) Four full-time equivalent (4.0 FTE) social worker IV positions (\$32,544 each); and
  - (c) One full-time equivalent (1.0 FTE) judicial clerk II position (\$22,002);
- (2) Second circuit:
  - (a) One full-time equivalent (1.0 FTE) social worker V position (\$36,616);
  - (b) Two full-time equivalent (2.0 FTE) social worker IV positions (\$32,544 each); and
  - (c) One full-time equivalent (1.0 FTE) judicial clerk II position (\$22,002);
- (3) Third circuit:

Two full-time equivalent (2.0 FTE) social worker IV positions (\$32,544 each); and
- (4) Fifth circuit:

One full-time equivalent (1.0 FTE) social worker IV position (\$32,544).

#### PART IV: ELECTRONIC MONITORING

SECTION 9. The legislature finds that electronic monitoring (EM) is an effective alternative to incarceration when used to conduct after-hours curfew surveillance or house arrest restriction of pretrial detainees. The department of public safety currently operates seventy EM units statewide through central intake service. Pretrial detainees constitute more than half of the Oahu community correctional center population. It is necessary to increase the number of units to be used as court ordered conditions of pretrial supervised release of bail. Providing seventy additional EM units and the creation of two teams to provide surveillance for these units will enhance this pretrial alternative to incarceration and ensure prompt apprehension upon violation.

The purpose of this part is to authorize the establishment of temporary positions to expand electronic monitoring with surveillance.

SECTION 10. The department of public safety is authorized to establish, at the stated levels, the following temporary positions for the purpose of implementing section 9 for each fiscal year 1995–1996 and 1996–1997, and to be funded from the appropriation authorized in section 23:

- (1) Two full-time equivalent (2.0 FTE) social worker III positions (\$27,000 each);
- (2) Two full-time equivalent (2.0 FTE) deputy sheriff II positions (\$26,000 each); and
- (3) One full-time equivalent (1.0 FTE) clerk position (\$20,000).

## PART V: DRUG TREATMENT SERVICES

SECTION 11. The legislature finds that early intervention of drug treatment for nonviolent drug offenders is an essential part of the drug court concept and will divert offenders from jail into residential or appropriate out-patient treatment programs upon initial detention. The department of public safety, the offices of prosecuting attorneys, and the drug court in the first circuit and other courts, as appropriate, may identify the substance abuser after arrest, assess the extent of addiction, determine the level of treatment needed, and refer the individual to a substance abuse program until clinical discharge with approval of the appropriate authority. Failure to successfully complete drug treatment will result in increasing sanctions, including incarceration.

Many pretrial detainees currently qualify for such a program but none are available because of limited resources. The legislature therefore finds it necessary to fund drug treatment programs for offenders diverted from jail on supervised release by the courts and in connection with programs of deferred prosecution that may be established by offices of prosecuting attorneys in the various circuits. It is anticipated that at least forty-eight pretrial offenders per year will be diverted to drug treatment in connection with the first circuit drug court. The department of public safety estimates that forty-eight other offenders in the first year, and ninety-six in the second year of the biennium would be eligible for diversion through deferred prosecution programs.

## PART VI: COMMUNITY REINTEGRATION PROGRAMS

SECTION 12. (a) The legislature finds that the primary mission of the State's correctional function is the protection of the public. One way this protection is achieved is through programs that prepare inmates for successful reintegration into the community after their release from incarceration. Without this preparation, most inmates will have great difficulty in establishing meaningful, productive, crime-free lives. Upon entry into prison, approximately sixty per cent of the inmates are functionally illiterate, most have no real vocational skills, and eighty-five per cent have a history of substance abuse. The number of inmates who are sex offenders is growing rapidly.

Unless programs are available to address these issues, these inmates cannot safely be released into the community. The Hawaii paroling authority has found that a large majority of parole violations are attributable to substance abuse. In addition, many sex offenders are not adequately prepared for release into the community because of limited treatment opportunities in prison, and thus must remain incarcerated, contributing to overcrowding.

The legislature therefore finds that correctional programs need to be properly funded to:

- (1) Protect the public;
  - (2) Alleviate overcrowding; and
  - (3) Give inmates the opportunity to successfully return to the community.
- (b) The purpose of this part is to authorize the establishment of temporary positions for:

- (1) Inmate basic education and vocational programs;
- (2) The purchase of services for medically disabled inmates in the sex offender treatment program;
- (3) Personnel costs for surveillance groups in the sex offender treatment program;
- (4) Personnel costs, other current expenses and equipment for the assessment center of the sex offender treatment program; and

- (5) Personnel costs and other current expenses for the substance abuse programs.

SECTION 13. The department of public safety is authorized to establish the following temporary positions for the purpose of implementing section 12 for each fiscal year 1995–1996 and 1996–1997:

- (1) One full-time equivalent (1.0 FTE) clinical psychologist VII position;
- (2) One full-time equivalent (1.0 FTE) clinical psychologist V position;
- (3) Four full-equivalent (4.0 FTE) social worker II positions;
- (4) One full-time equivalent (1.0 FTE) substance abuse program administrator position;
- (5) One full-time equivalent (1.0 FTE) substance abuse clinical supervisor position;
- (6) One full-time equivalent (1.0 FTE) substance abuse counselor position; and
- (7) One full-time equivalent (1.0 FTE) clerk typist position.

### **PART VII: RESIDENTIAL WORK-FURLOUGH**

SECTION 14. The Hawaii paroling authority is limited in program options by the lack of alternatives for a parolee who is employed but who is violating technical conditions of the parolee's parole. Current practice is to return the parolee to custody for up to ninety days, due to high caseloads, rather than providing extensive daily supervision and keeping the parolee out of custody. In this situation, the parolee invariably loses the parolee's job, reducing the chances of successful parole completion.

In fiscal year 1994, approximately thirty per cent or eighty-six technical parole violators could have utilized a structured residential program in lieu of revocation and reincarceration. Many are drug users who must be removed from their current environment to abstain from drugs and enter treatment. This can be accomplished at the residential facility.

The legislature finds it is more practical and financially responsible to place these employed parolees in a residential facility with work release than to return these offenders to prison.

### **PART VIII: EARLY PAROLE**

SECTION 15. With the necessary additional staffing, the Hawaii paroling authority could parole, in addition to the normal predicted parole releases, approximately one hundred sixty inmates who are within one year of completion of their minimum sentence expiration dates and who have a suitable parole plan, and whose conduct while institutionalized has been above average and who are classified minimum or community security. Inmates would be screened by the Hawaii paroling authority and the department of public safety. By providing additional staff and funds for drug testing, electronic monitoring, and treatment, the increased caseload of these parolees should not compromise public safety.

The purpose of this part is to authorize the establishment of temporary positions for the department of public safety to meet its anticipated caseload.

SECTION 16. The department of public safety is authorized to establish the following temporary positions for the purpose of implementing section 15 for each fiscal year 1995–1996 and 1996–1997:

- (1) Two full-time equivalent (2.0 FTE) social worker IV positions (SR 22); and

- (2) One full-time equivalent (1.0 FTE) clerk position (SR 08).

## **PART IX: SEX OFFENDER AND SUBSTANCE ABUSE SERVICES**

SECTION 17. Without continued treatment while on parole, sex offenders will pose a significant danger to the community. Similarly, drug-dependent offenders crave illegal substances and will do almost anything to continue their addiction. Without substance abuse treatment, they will pose a continuing threat to the community. In addition, an estimated eighty per cent (or two hundred twenty-nine) of parole violators who returned to prison are due to drug related activities. Without substance abuse treatment while in the community, drug dependent offenders pose a risk to the community safety and are more likely to fail parole and be incarcerated.

## **PART X: INCREASED PAROLE OFFICERS**

SECTION 18. The Hawaii paroling authority's normal anticipated caseload has grown by an additional three-hundred inmates in recent years, and at this point the authority's resources have reached their effective limit. The Hawaii paroling authority has approximately one thousand seven hundred parolees under its jurisdiction and a total of twenty-six parole officers statewide. Eight parole officers are assigned to specialized caseloads of thirty-five to fifty parolees including sex offenders and mentally ill offenders, leaving an average caseload of eighty to one hundred parolees for other supervising officers. To maintain a credible parole program, with appropriate supervision levels for parolees, and to accommodate the routine parole releases, the authority requires the addition of two parole officers.

The purpose of this part is to establish temporary positions to increase parole staff to adequately meet the current caseload.

SECTION 19. The department of public safety is authorized to establish two temporary full-time equivalent (2.0 FTE) social worker IV positions (SR 22) to serve as parole officers under the Hawaii paroling authority for the purpose of implementing section 18 for each fiscal year 1995-1996 and 1996-1997.

## **PART XI: KASHBOX PROGRAM**

SECTION 20. The legislature finds that the KASHBOX program, a therapeutic community for minimum security inmates with chronic drug abuse problems, has had a high level of success in helping inmates who have been through the program complete their parole. Data collected by the Hawaii paroling authority documents a twenty-five per cent recidivism rate for KASHBOX graduates, compared with sixty per cent for a comparable group of parolees. The KASHBOX program currently services only a small fraction of eligible inmates.

The purpose of this part is to authorize the establishment of temporary positions to expand the KASHBOX program to reach a greater number of inmates.

SECTION 21. The department of public safety is authorized to establish, at the stated levels, the following temporary positions for the purpose of implementing section 20 for each fiscal year 1995-1996 and 1996-1997:

- (1) One full-time equivalent (1.0 FTE) clinical supervisor position (SR 24) (\$36,636);
- (2) Two full-time equivalent (2.0 FTE) substance abuse counselors (SR 22) (\$32,544 each); and
- (3) One full-time equivalent (1.0 FTE) clerk typist II (\$17,712).

**PART XII: APPROPRIATIONS**

SECTION 22. There is appropriated out of the general revenues of the State of Hawaii the sum of \$612,503, or so much thereof as may be necessary for fiscal year 1995–1996, and the sum of \$612,503, or so much thereof as may be necessary for fiscal year 1996–1997, for staffing, equipment, and other current expenses for the implementation and operation of the drug court.

The sums appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 23. There is appropriated out of the general revenues of the State of Hawaii the sum of \$281,200, or so much thereof as may be necessary for fiscal year 1995–1996, and the sum of \$281,200, or so much thereof as may be necessary for fiscal year 1996–1997, for staffing, equipment, and other current expenses for the implementation and operation of the electronic monitoring program.

The sums appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 24.<sup>1</sup> This Act shall take effect on July 1, 1995.

(Approved June 29, 1995.)

**Note**

1. No ramseyer clause.

**ACT 26****S.B. NO. 3-S**

A Bill for an Act Relating to Environmental Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The legislature further finds that environmental protection efforts suffer from a lack of coordination and diffusion of authority among various state agencies. The legislature further finds that efforts to undertake comprehensive strategic planning to identify overall goals and objectives of environmental management have been begun by the department of health for its programs, and that they can use their experience to assist in coordinating goal-setting among all state environmental agencies. The legislature further finds that the most effective method for environmental management is through the prevention of pollution. Effective pollution prevention requires environmental education and awareness programs, and training to develop environmentally-literate citizens who will be prepared to solve existing environmental problems, prevent new problems, and maintain a sustainable environment for future generations.

The purpose of this Act is to direct the department of health to work with the larger Hawaii community to establish goals, objectives, and priorities for the management and protection of Hawaii's environment as we approach the next century.

SECTION 2. (a) There is established the environmental advisory task force in the department of health to carry out the purposes of this Act. This task force shall be composed of representatives of interested organizations and community groups from all over the State, which shall:

- (1) Advise and comment on the procedures used by the department to foster public participation in its efforts to adopt goals and objectives for environmental protection;
- (2) Advise and comment on the department's efforts to promote grass-roots participation in environmental issues of concern in Hawaii;
- (3) Direct the department's efforts to promote environmental education programs and initiatives; and
- (4) Serve as a forum for public participation and comment on the environmental goals and objectives adopted by the department.

The task force shall develop and adopt an internal timetable to accomplish these tasks.

(b) The task force shall include, but not be limited to representatives from government agencies involved in environmental regulation and enforcement, government agencies involved in environmental education, the University of Hawaii, the armed forces, native Hawaiian organizations, environmental organizations, businesses that are regulated with regard to environmental matters by the department, the recycling industry, the visitor industry, the development industry, and any other associations interested in the environment.

(c) Nominations shall be submitted by the agencies set forth in subsection (b) to the director of the department of health within thirty days following the effective date of this Act. Appointments by the director of health shall be made within forty-five days following the effective date of this Act. The members shall elect a chairperson. Members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. The task force shall terminate on January 31, 1997.

**SECTION 3.** The environmental advisory task force shall provide a status report to the legislature by August 30, 1995. An interim report, which shall include a summary of the department of health's goals and objectives, shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1996. The task force shall submit its final report to the legislature no later than twenty days prior to the convening of the regular session of 1997.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$15,000, or so much thereof as may be necessary for fiscal year 1995-1996, for the purposes of this Act.

**SECTION 5.** The department of health may receive monetary donations and gifts for the purposes of this Act.

**SECTION 6.** The sum appropriated shall be expended by the department of health for the purposes of this Act.

**SECTION 7.** The chairperson of the board of land and natural resources may develop, using existing personnel within the department of land and natural resources, a citizen-based extension service. Among the duties the chairperson may consider for the extension service would be volunteer coordination, environmental education, management of conservation or natural area reserve lands, participation in data collection and analysis, trail interpretation, assistance to the enforcement division, permit review and issuance, and water quality management with the department of health. The chairperson may receive monetary donations, gifts, and grants from sources other than the legislature and the federal government for this purpose, and shall report to the legislature, no less than twenty days prior to the

convening of the regular session of 1996, on any financial support that may be required to implement this section.

SECTION 8. This Act shall take effect upon its approval and shall be repealed on June 30, 1997.

(Approved June 29, 1995.)

## ACT 27

S.B. NO. 7-S

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the December, 1992, report by the task force on the duties of the lieutenant governor indicated, among other things, that there is public dissatisfaction with having the lieutenant governor serve as the chief election officer of the State. While the task force acknowledged that the present elections system incorporates a multitude of built-in safeguards to ensure integrity, it found that there remains the appearance of possible conflicts of interest on the part of lieutenant governors. The task force strongly believed that having an individual, rather than a board or commission, responsible for administering elections is a key factor in promoting accountability and effective management of elections, but recommended that the individual be appointed by an independent panel rather than be an elected official.

The purpose of this Act is to establish a temporary office of elections, to be administratively attached to the office of the lieutenant governor and administered by a chief election officer who serves at the pleasure of an elections appointment panel. The office of elections is established for the special purpose of assuming the rights, powers, functions, and duties of the existing elections division of the office of the lieutenant governor.

The responsibility for administration of the elections is currently assigned to the lieutenant governor, the general administrator of the elections division, and the director of elections. It is the intent of this Act that the elections-related duties and functions of the lieutenant governor, the duties and functions of the general administrator of the elections division, and the duties and functions of the director of elections be performed by the chief election officer.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

**“§11- Office of elections established.** There is established an office of elections to provide support to the chief election officer. The office shall be attached to the office of the lieutenant governor for purposes of administration. The chief election officer shall be the administrator of the office of elections. Except for exercising the right to vote, the full-time employees of the office of elections shall not support, advocate, or aid in the election or defeat of any candidate for public office.

**§11- Elections appointment panel established; composition; term; removal; operations.** (a) There is established an elections appointment panel, consisting of five members who shall be assembled every four years beginning July 1, 1995, whose sole purpose is to select and appoint the chief election officer.



(b) The governor shall appoint the five members of the elections appointment panel. Four of the five members shall be selected from lists, each consisting of five nominees, submitted by the following:

- (1) The president of the senate;
- (2) The speaker of the house of representatives;
- (3) The members of the senate belonging to the party or parties different from that of the president of the senate; and
- (4) The members of the house of representatives belonging to the party or parties different from that of the speaker of the house of representatives.

The governor shall select one person from each of these four lists. The fifth member shall be selected with the governor's complete discretion.

(c) The term of each member shall be four years. No person shall be appointed consecutively to more than two terms as a member of the panel. Vacancies shall be filled for the remainder of any unexpired term in the same manner as the original appointment.

(d) The governor may remove or suspend any member of the panel, upon the filing of a written finding with the panel and upon service of a copy of the written finding on the member removed or suspended.

(e) The chairperson of the panel shall be selected by a majority vote of the panel from among its members. The panel shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

(f) The members of the panel shall serve without compensation but shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties.

(g) No panel member shall be eligible for appointment as chief election officer so long as the person is a member of the elections appointment panel and for a period of one year thereafter.

(h) The elections appointment panel shall be attached to the office of the lieutenant governor for purposes of administration.

**§11- Elections appointment panel; political activities.** (a) No panel member shall take an active part in political management or in political campaigns.

(b) Each panel member shall retain the right to:

- (1) Register and vote as the panel member chooses in any election;
- (2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
- (3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
- (4) Make a financial contribution to a political party or organization;
- (5) Serve as an election judge or clerk or in a similar position to perform nonpartisan election duties as prescribed by law; and
- (6) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the panel member's efficiency or integrity as a panel member or the neutrality, efficiency, or integrity of the elections appointment panel.

(c) A panel member may request an advisory opinion from the state ethics commission to determine whether a particular activity constitutes or would constitute a violation of the code of ethics or this section.

**§11- Appointment of the chief election officer; requirements; term; restrictions; salary; reappointment; removal.** (a) The chief election officer shall be appointed by the elections appointment panel, without regard to chapters 76 and

77. The elections appointment panel shall select and appoint the chief election officer in an odd-numbered year. The appointment shall not be subject to the advice and consent of the senate. In the event of a vacancy, the panel shall meet expeditiously to select and appoint a new chief election officer to serve the remainder of the unexpired term.

(b) The person so appointed shall be a citizen of the United States, a resident of the State, and a registered voter of the State.

(c) The chief election officer shall serve for a term of four years. The term shall begin on February 1 following the appointment, except that the term for the first appointed chief election officer shall commence ninety days following the date of appointment, or on February 1, 1996, whichever comes first, and shall end on January 31, 1999.

(d) The chief election officer shall devote full time to the duties of the office and shall hold no other public office during the individual's term of office. Except for exercising the right to vote, the individual shall not support, advocate, or aid in the election or defeat of any candidate for public office. The chief election officer shall refrain from financial and business dealings that tend to reflect adversely on the individual's impartiality, interfere with the proper performance of election duties, or exploit the individual's position. Subject to the requirements above, the individual may hold and manage investments, including real estate, and engage in other remunerative activity, but shall not serve as an officer, director, manager, advisor, or employee of any business.

(e) The chief election officer shall be paid a salary set at the maximum salary payable to deputies or assistants to department heads as established by section 26-53.

(f) The chief election officer may be reappointed by the panel. The chief election officer may hold office until a successor is appointed.

(g) The chief election officer may be removed by the panel at any time and for any cause."

SECTION 3. Section 11-1, Hawaii Revised Statutes, is amended by amending the definition of "chief election officer" to read as follows:

""Chief election officer," the [lieutenant governor as set forth in section 11-2] individual appointed by the elections appointment panel pursuant to section 11- to supervise state elections."

SECTION 4. Section 11-2, Hawaii Revised Statutes, is amended to read as follows:

**"§11-2 Chief election officer[.]; duties.** (a) The [lieutenant governor shall be the chief election officer for the administration of this title. The lieutenant governor] chief election officer shall supervise all state elections. The chief election officer may delegate responsibilities in state elections within a county to the clerk of that county or to other specified persons.

(b) The chief election officer shall be responsible for the maximization of registration of eligible electors throughout the State. In maximizing registration, the chief election officer shall make an effort to equalize registration between districts, with particular effort in those districts in which the chief election officer determines registration is lower than desirable. The chief election officer, in carrying out this function, may make surveys, carry on house to house canvassing, and assist or direct the clerk in any other area of registration.

(c) The chief election officer shall maintain data concerning registered voters, elections, apportionment, and districting. The chief election officer shall use

this data to assist the reapportionment commission provided for under Article IV of the Constitution.

(d) The chief election officer shall be responsible for public education with respect to voter registration and information.

(e) The chief election officer shall adopt rules governing elections in accordance with chapter 91.”

SECTION 5. Section 11-5, Hawaii Revised Statutes, is amended to read as follows:

“**§11-5 Employees.** The chief election officer may employ a [permanent] staff[, subject to the provisions of] without regard to chapters 76 and 77, to supervise state elections; maximize registration of eligible voters throughout the State; maintain data concerning registered voters, elections, apportionment, and districting; and to perform other duties as prescribed by law. The chief election officer or county clerk may employ precinct officials and other election employees as the chief election officer or county clerk may find necessary, none of whom shall be subject to [the provisions of] chapters 76 and 77.”

SECTION 6. Section 11-193, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

“**§11-193 Duties of the [lieutenant governor;] chief election officer; commission.** (a) The principal duty of [the lieutenant governor as] the chief election officer is to regulate the election process. Under this subpart the [lieutenant governor’s] chief election officer’s duties are:

- (1) To develop and adopt reporting forms required by this subpart;
- (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart, including uniform and simple methods of recordkeeping;
- (3) To preserve all reports required by this subpart for at least five years from the date of receipt;
- (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.”

SECTION 7. Sections 11-191, 11-194, 11-195, and 11-216, Hawaii Revised Statutes, are amended by substituting the words “chief election officer” wherever the words “lieutenant governor” appear, as the context requires.

SECTION 8. Section 12-8, Hawaii Revised Statutes, is amended to read as follows:

“**§12-8 Nomination papers: challenge; evidentiary hearings and decisions.** (a) All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by a registered voter, chief election officer or county clerk in writing not later than 4:30 p.m. on the thirtieth day or the next earliest working day prior to that election day. An objection in a primary or special election by a registered voter or county clerk shall be filed not later than 4:30 p.m. on the thirtieth day or the next earliest working day prior to that primary or special election day. In case objection is made, notice thereof shall be given

including the placement of the notice in the mail by registered or certified mail to the candidate objected thereto.

(b) The chief election officer or the clerk in the case of county offices shall have the necessary powers and authority to reach a preliminary decision on the merits of the objection; provided that nothing in this subsection shall be construed to extend to the candidate a right to an administrative contested case hearing as defined in section 91-1(5). The chief election officer or the clerk in the case of county offices shall render a preliminary decision not later than five working days after the objection is filed.

(c) If the chief election officer or clerk in the case of county offices determines that the objection may warrant the disqualification of the candidate, the chief election officer or clerk shall file a complaint in the circuit court for a determination of the objection; provided that such complaint shall be filed with the clerk of the circuit court not later than 4:30 p.m. on the seventh working day after the objection was filed.

(d) If the chief election officer or clerk in the case of county offices files a complaint in the circuit court, the circuit court clerk shall issue to the defendants named in the complaint a summons to appear before the court not later than 4:30 p.m. on the fifth day after service thereof.

(e) The circuit court shall hear the complaint in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide the objection presented in the complaint, and a certified copy of the judgment shall forthwith be served on the chief election officer or the clerk, as the case may be.

(f) If the judgment disqualifies the candidate, the chief election officer or the clerk shall follow the procedures set forth in sections 11-117 and 11-118 regarding the disqualifications of candidates.

[(g) If an objection is made to the nomination papers of any candidate for the office of lieutenant governor pursuant to this section, the incumbent lieutenant governor shall be excused and the attorney general shall execute this section. The attorney general shall render a preliminary decision not later than five working days after the objection is filed.]”

SECTION 9. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

**“§26-1 Office of the lieutenant governor.** (a) Except as otherwise provided by law, the lieutenant governor is designated the secretary of [State] state for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, [supervision of elections,] recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules [and regulations promulgated] adopted by state departments as provided in chapter 91. The lieutenant governor may employ staff as necessary without regard to [the provisions of] chapters 76 and 77[, except for six permanent election positions pursuant to section 11-5].

(b) The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during the lieutenant governor’s temporary absence without the State or during the lieutenant governor’s illness whenever the documents require the signature of the lieutenant governor. The person shall affix the person’s own signature to the document with the words, “for the lieutenant governor” following and the signature shall be deemed to satisfy the requirement of the

lieutenant governor's signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on the lieutenant governor's official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

(c) Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article V, section 4 of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to Article V, section 4 of the Constitution.

(d) The governor shall identify and direct other duties as necessary to the lieutenant governor."

SECTION 10. Effective upon the commencement of the term of the first chief election officer appointed by the elections appointment panel, the functions and authority heretofore exercised by the lieutenant governor as chief election officer shall be transferred to the first chief election officer appointed by the elections appointment panel.

SECTION 11. All rights, powers, functions, and duties of the existing elections division of the office of the lieutenant governor are transferred to the office of elections established by this Act.

All officers and employees of the elections division shall be transferred to the office of elections established by this Act except that the positions of the deputy executive officer (general administrator of the elections division) and the director of elections shall be abolished.

Tenured employees transferred to the new office of elections by this Act shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Employees who, prior to this Act, were exempt from civil service, and who are transferred by this Act to the new office of elections, shall continue to retain their exempt status after transfer and shall suffer no loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

If an office or position held by a civil service officer or employee having tenure is abolished as a result of this Act, the officer or employee shall have the right to placement through applicable reduction-in-force laws and rules or reemployment through a recall list.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, computer software and data, authorizations, and other personal property previously made, used, acquired, or held by the office of the lieutenant governor relating to the functions transferred to the office of elections shall be transferred with the function to which they relate.

SECTION 12. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$5,000, or so much thereof as may be necessary, for fiscal year 1995-1996, to carry out the purposes of this Act. The sums appropriated shall be expended by the office of the lieutenant governor.

SECTION 13. Sections 11-5, 11-193, and 26-1, Hawaii Revised Statutes, as amended by this Act, shall be amended to conform to amendments made to those sections by any acts passed by the legislature during the regular session of 1995, whether the effective dates of those acts are before or after the effective date of this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 15. This Act shall take effect on July 1, 1995; provided that on June 30, 1999, this Act shall be repealed and sections 11-1, 11-2, 11-5, 11-191, 11-193, 11-194, 11-195, 11-216, 12-8, and 26-1, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.

(Approved June 29, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 28**

S.B. NO. 4-S

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13 of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance," the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13 of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the

principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, section 13.

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1994–1995 and estimated for each fiscal year from 1995–1996 to 1998–1999, is as follows:

| Fiscal Year | Net General Fund Revenues | Debt Limit    |
|-------------|---------------------------|---------------|
| 1991–1992   | \$2,672,238,596           |               |
| 1992–1993   | 2,801,180,523             |               |
| 1993–1994   | 3,054,307,502             |               |
| 1994–1995   | 2,932,401,187             | \$525,876,475 |
| 1995–1996   | 3,025,396,179             | 541,919,835   |
| 1996–1997   | 3,161,859,921             | 555,746,467   |
| 1997–1998   | 3,323,123,617             | 562,378,866   |
| 1998–1999   | (Not Applicable)          | 586,473,416   |

For fiscal years 1994–1995, 1995–1996, 1996–1997, 1997–1998, and 1998–1999 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1991–1992, 1992–1993, and 1993–1994 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1994, dated November 30, 1994. The net general fund revenues for fiscal years 1994–1995 to 1997–1998 are estimates, based on general fund revenue estimates made as of May 30, 1995, by the council on revenues, the body assigned by Article VII, section 7 of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of March 1, 1995 is as follows for fiscal year 1995–1996 to fiscal year 2001–2002:

| Fiscal Year | Principal and Interest |
|-------------|------------------------|
| 1995–1996   | \$379,977,185          |
| 1996–1997   | 373,882,581            |
| 1997–1998   | 360,684,152            |
| 1998–1999   | 332,796,331            |
| 1999–2000   | 317,341,580            |
| 2000–2001   | 268,165,837            |
| 2001–2002   | 251,919,022            |

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2002–

- 2003 to fiscal year 2014–2015 when the final installment of \$15,815,313 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$202,000,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.
- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of February 28, 1995, adjusted for (1) the issuance of \$268,000,000 general obligation bonds of 1995, Series CJ, (2) appropriations to be funded by general obligation bonds as provided in House Bill No. 1220, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 1995)<sup>1</sup> in the amount of \$231,145,000, and (3) lapses as provided in House Bill No. 1220, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 1995)<sup>1</sup> amounting to \$36,141,231, the total amount of authorized but unissued general obligation bonds is \$868,334,578. The total amount of general obligation bonds authorized by this Act is \$813,659,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$1,681,993,578. (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$202,000,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1994–1995, 1995–1996, 1996–1997, 1997–1998, and 1998–1999, the State proposes to issue \$200,000,000 during the remainder of fiscal year 1994–1995, \$100,000,000 during the first half of fiscal year 1995–1996, \$300,000,000 during the second half of fiscal year 1995–1996, \$233,000,000 during the first half of fiscal year 1996–1997, \$449,000,000 during the second half of fiscal year 1996–1997 and \$100,000,000 semiannually in each of fiscal years 1997–1998 through 1998–1999. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1994–1995 to 1997–1998 is \$1,482,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1998–1999. The total amount of \$1,482,000,000 which is proposed to be issued through fiscal year 1997–1998 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,681,993,578, as reported in paragraph (4), except for



\$199,993,578. It is assumed that the appropriations to which an additional \$199,993,578 in bond issuance needs to be applied will have been encumbered as of June 30, 1998. The \$200,000,000 which is proposed to be issued in fiscal year 1998–1999 will be sufficient to meet the requirements of the June 30, 1998 encumbrances in the amount of \$199,993,578. The amount of assumed encumbrances as of June 30, 1998 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1998, and the amount of June 30, 1998 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1998–1999, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 7.34 percent for the ten years from fiscal year 1995–1996 to fiscal year 2004–2005. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13 of the State Constitution for the fiscal years 1994–1995, 1995–1996, 1996–1997, 1997–1998 and 1998–1999 are as follows:

| Fiscal Year | Total amount of General<br>Obligation Bonds not<br>otherwise excluded by<br>Article VII, section 13 of<br>the State Constitution |
|-------------|--|
| 1994–1995   | \$2,917,537,237  |
| 1995–1996   | 2,679,117,610  |
| 1996–1997   | 2,892,500,018  |
| 1997–1998   | 2,839,709,329  |
| 1998–1999   | 2,792,450,302  |

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to a actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties and the guaranties proposed to be incurred can be excluded.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 6.5 percent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

| Time of Issuance<br>and Amount to be<br>Counted Against<br>Debt Limit | Debt Limit<br>at Time of<br>Issuance | Greatest Amount<br>and Year of<br>Highest Principal<br>and Interest<br>on Bonds and Guaranties |
|---|--------------------------------------|--|
| Remainder of FY 1994–1995   |                                      |  |
| \$190,000,000   | \$525,876,475                        | \$392,327,185 (1995–1996)  |
| 1st half FY 1995–1996   |                                      |  |
| \$95,000,000  | 541,919,835                          | 392,407,581 (1996–1997)  |
| 2nd half FY 1995–1996   |                                      |  |
| \$285,000,000   | 541,919,835                          | 410,932,581 (1996–1997)  |
| 1st half FY 1996–1997   |                                      |  |
| \$221,350,000   | 555,746,467                          | 422,677,458 (1997–1998)  |

| Time of Issuance<br>and Amount to be<br>Counted Against<br>Debt Limit | Debt Limit<br>at Time of<br>Issuance | Greatest Amount<br>and Year of<br>Highest Principal<br>and Interest<br>on Bonds and Guaranties |
|---|--------------------------------------|--|
| 2nd half FY 1996–1997<br>\$426,550,000                                | 555,746,467                          | 460,850,559 (1999–2000)  |
| 1st half FY 1997–1998<br>\$95,000,000                                 | 562,378,866                          | 467,025,559 (1999–2000)  |
| 2nd half FY 1997–1998<br>\$95,000,000                                 | 562,378,866                          | 473,200,559 (1999–2000)  |
| 1st half FY 1998–1999<br>\$95,000,000                                 | 586,473,416                          | 479,375,559 (1999–2000)  |
| 2nd half FY 1998–1999<br>\$95,000,000                                 | 586,473,416                          | 485,550,559 (1999–2000)  |

(9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 14-S (the Judiciary Appropriations Act of 1995),<sup>2</sup> House Bill No. 12-S (Relating to Governmental Assistance),<sup>3</sup> House Bill No. 10-S (Relating to Hawaiian Home Lands),<sup>4</sup> House Bill No. 5-S (Relating to Education),<sup>5</sup> and House Bill No. 13-S (Relating to the Hawaii Hurricane Relief Fund)<sup>6</sup> passed in this first special session of 1995, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$813,659,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 30, 1995.)

#### Notes

1. Act 218.
2. Act 18, Special Session.
3. Act 16, Special Session.
4. Act 14, Special Session.
5. Act 9, Special Session.
6. Act 17, Special Session.

## ACT 29

S.B. NO. 6-S

A Bill for an Act Making an Appropriation for Agricultural Research and Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that agriculture is one of the State's most important industries and a vital component of the State's economic base. The legislature also finds that although sugar will continue to be Hawaii's primary export product, the sugar industry is downsizing to remain efficient, productive, and cost effective. With the downsizing of the sugar industry, agricultural research is becoming increasingly important for maintaining and improving current crops grown across the State and for developing new crops so that the State can take the best economic advantage of the thousands of acres of prime agricultural lands that are becoming available. The legislature also finds that the Hawaiian Sugar Planters' Association has been working with other agriculturists, landowners, and the State to place the research efforts of its experiment station under the direction of a new organization, the Hawaii Agricultural Research Corporation. The experiment station will begin a second century of conducting proven, production-oriented, results-driven scientific research for the State's agriculture industry and will be a key resource in the State's efforts to strengthen and improve the agriculture industry, revitalize the economy, and maintain and create employment opportunities, especially in rural areas.

The purpose of this Act is to provide the necessary funds to maintain current minimum levels of sugarcane research and to make available the resources of the experiment station for diversified agricultural research.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1995-1996, for agricultural research and development to be performed by the experiment station of the Hawaiian Sugar Planters' Association; provided that no funds for sugarcane research shall be released unless matched on a dollar for dollar basis; and provided further that no funds for nonsugarcane research shall be released unless the beneficiaries of the nonsugarcane research contribute one dollar for every three dollars the State provides.

SECTION 3. The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 30, 1995.)

## ACT 30

S.B. NO. 11-S

A Bill for an Act Relating to Housing Revolving Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to authorize the housing finance and development corporation to transfer moneys from the rental assistance revolving fund to the rental housing trust fund. The flexibility to transfer funds will permit more efficient use of available funds to provide affordable housing for the people of the State of Hawaii. It is also the purpose of this Act to transfer funds from the rental assistance revolving fund to develop strategies to address the needs of displaced sugar workers at Waialua and Del Monte pineapple workers living at Poamoho and Kunia in danger of losing their homes. Specifically, this Act addresses the housing needs of displaced sugar workers by providing for the following:

- (1) The development and implementation of strategies to provide affordable housing;
- (2) An emergency loan program that will provide temporary assistance; and
- (3) A grant program to finance the temporary relocation of families.

SECTION 2. The housing finance and development corporation may effectuate a one-time transfer from the rental assistance revolving fund established by section 201E-132, Hawaii Revised Statutes, of \$3,200,000 to the rental housing trust fund established by section 201F-2, Hawaii Revised Statutes; provided that the corporation shall report any transfer under this section to the legislature within ten days of the transfer.

SECTION 3. There is appropriated out of the rental assistance revolving fund created by section 201E-132, Hawaii Revised Statutes, the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1995–1996, to develop and implement strategies that will provide affordable housing for the former employees of Waialua Sugar Company and Del Monte camp at Poamoho and Kunia; provided that this appropriation shall not lapse at the end of the 1995–1996 fiscal year, and any amount that is unencumbered as of June 30, 1997, shall lapse into the rental assistance revolving fund as of that date. The housing finance and development corporation shall develop and implement these strategies, which include the following:

- (1) Using its bond authority to leverage federal and other funds; and
- (2) Assisting in the organizational development and financial feasibility assessment of a project to preserve plantation housing through a mutual housing association established under Act 310, Session Laws of Hawaii 1992.

SECTION 4. There is appropriated out of the rental assistance revolving fund created by section 201E-132, Hawaii Revised Statutes, the sum of \$550,000, or so much thereof as may be necessary for fiscal year 1995–1996, to provide the following for the former employees, retirees, or their surviving spouses displaced by the closure of Waialua Sugar Company:

- (1) Developing and implementing a grant program. The housing finance and development corporation shall develop this grant program, which shall include a special rental subsidy program for the relocation of retirees, former employees, and their surviving spouses who are in transition to other jobs; and

## (2) Low-interest loans.

The above appropriation shall not lapse at the end of the 1995–1996 fiscal year, and any amount that is unencumbered as of June 30, 1997, shall lapse into the rental assistance revolving fund as of that date. Loans may be made for up to \$10,000 each to provide for the payment of monthly mortgage loan payments, which may include principal and interest payments, real property taxes, and insurance. The loans shall be limited to one loan per household and the rate of interest on loans made pursuant to this Act shall not exceed three per cent a year. Interest earnings on funds appropriated and loans made pursuant to this Act may be used for administrative and other expenses necessary for administering the loan program. Loans made pursuant to this Act may not require repayment to begin for a period of two years after the loan agreement is executed. Loan proceeds distributed may be made directly to the borrower's note and mortgage holder to ensure timely payment of the borrower's mortgage payment. Guidelines for administering this loan program shall be adopted by the housing finance and development corporation.

SECTION 5. The housing finance and development corporation shall submit to the legislature a status report on actions taken under this Act no later than twenty days prior to the convening of the regular session of 1996.

SECTION 6. The sums appropriated shall be expended by the housing finance and development corporation for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 1995.

(Approved June 30, 1995.)

**Note**

1. No bracketed or underscored material.

**ACT 31**

S.B. NO. 5-S

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the closure of Waialua Sugar Company will result in significant negative impacts to Waialua sugar workers. Housing ranks among their primary concerns. Currently, many employees and their families live in plantation homes owned by the company. With the closing of the Waialua Sugar Company, many of these families face the possibility of losing their homes.

With the loss of their jobs, many employees will undergo a transition period as they seek new employment, participate in job training programs, or seek other opportunities. While incomes may be greatly diminished, these employees must continue to make their housing payments and meet other living expenses. Many former employees in transition may find it difficult to qualify for loans under conventional loan-writing standards.

The purpose of this Act is to develop strategies to address the needs of displaced Waialua Sugar workers in danger of losing their homes. Specifically, this Act addresses the housing needs of displaced Waialua Sugar workers by providing for the following:

- (1) The development and implementation of strategies to provide affordable housing;
- (2) An emergency loan program that will provide temporary assistance; and
- (3) A grant program to finance the temporary relocation of families.

SECTION 2. There is appropriated out of the rental assistance revolving fund of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 1995–1996, to develop and implement strategies that will provide affordable housing for the former employees of the Waiialua Sugar Company that is scheduled for closure in 1996; provided that this appropriation shall not lapse at the end of the 1995–1996 fiscal year, and that any amount that is unencumbered as of June 30, 1997, shall lapse into the rental assistance revolving fund as of that date. The housing finance and development corporation shall develop and implement these strategies, which include the following:

- (1) Using its bond authority to leverage federal and other funds; and
- (2) Assisting in the organizational development and financial feasibility assessment of a project to preserve plantation housing through a mutual housing association established under Act 310, Session Laws of Hawaii 1992.

SECTION 3. There is appropriated out of the rental assistance revolving fund of the State of Hawaii the sum of \$664,000, or so much thereof as may be necessary for fiscal year 1995–1996, to provide the following for the former employees and surviving spouses displaced by the closure of Waiialua Sugar Company:

- (1) Developing and implementing a grant program. The housing finance and development corporation shall develop this grant program, which shall include a special rental subsidy program for the relocation of retirees, former employees, and their surviving spouses who are in transition to other jobs; and
- (2) Low-interest loans.

The above appropriations shall not lapse at the end of the 1995–1996 fiscal year, and any amount that is unencumbered as of June 30, 1997, shall lapse into the rental assistance revolving fund as of that date. Loans may be made for up to \$10,000 each to provide for the payment of monthly mortgage loan payments, which may include principal and interest payments, real property taxes, and insurance. The loans shall be limited to one loan per household and the rate of interest on loans made pursuant to this Act shall not exceed three per cent a year. Interest earnings on funds appropriated and loans made pursuant to this Act may be used for administrative and other expenses necessary for administering the loan program. Loans made pursuant to this Act may not require repayment to begin for a period of two years after the loan agreement is executed. Loan proceeds distributed may be made directly to the borrower's note and mortgage holder to ensure timely payment of the borrower's mortgage payment. Guidelines for administering this loan program shall be adopted by the housing finance and development corporation.

SECTION 4. The housing finance and development corporation shall submit to the legislature a status report on actions taken under this Act no later than twenty days prior to the convening of the regular session of 1996.

SECTION 5. The sums appropriated shall be expended by the housing finance and development corporation for the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 3, 1995.)

## ACT 32

H.B. NO. 4-S

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the destruction caused by Hurricane Iniki in 1992 resulted in an estimated \$1,600,000,000 in insured property losses to Kauai, parts of Oahu, and other areas of the State. Prior to the hurricane, homeowner's insurance covered losses from fire, windstorm, hurricane, and other causes. Immediately after the hurricane, homeowners insurance, which continued to include hurricane coverage, became difficult to obtain. Since that time, more than one-third of Hawaii's homeowners have lost their property insurance, and consumers have been repeatedly buffeted by announcements of companies pulling out of the Hawaii market completely. Insurance companies typically point to the high risk potential and the lack of reinsurance coverage as the primary factors behind the shrinkage in market participation in the State.

In 1993, by Act 339, the legislature created the Hawaii hurricane relief fund in an effort to encourage companies to resume writing homeowners' insurance policies in Hawaii. As a result of the law, insurance companies now issue homeowners' insurance policies that do not contain coverage for the hurricane risk. The Hawaii hurricane relief fund issues policies covering the hurricane risk. The law, however, makes the insurance companies liable for no more than the first \$500,000,000 in losses in the event of another hurricane. Hurricane losses in excess of the liability borne by insurance companies will be assumed by the Hawaii hurricane relief fund. Despite the creation of the fund, however, homeowners are currently forced to pay premiums at levels three to four times the rate paid prior to Hurricane Iniki.

Currently, the amount paid in premiums by homeowners for the first \$500,000,000 of hurricane coverage from private insurance carriers is difficult to ascertain. In contrast, the premiums paid by homeowners for the coverage provided by the Hawaii hurricane relief fund, plus the special mortgage recording fee, plus the 3.75 per cent annual assessment on insurance companies' property and casualty premiums totals approximately \$80,000,000 a year. Because the risk taken on by the Hawaii hurricane relief fund is less than the risk taken on by private insurance carriers in providing coverage for the first \$500,000,000, it is not unreasonable to assume that private carriers are receiving considerably more in premiums than the \$80,000,000 being received by the Hawaii hurricane relief fund.

Assuming \$80,000,000 in premiums each year, at a rate of five per cent interest, it is estimated that it will require seven years for the Hawaii hurricane relief fund to accumulate \$500,000,000. In order to immediately stabilize and, subsequently, provide for a reduction in insurance rates, the State must find a source of funding to satisfy the \$500,000,000 share of liability taken on by the Hawaii hurricane relief fund. The legislature understands that the Hawaii hurricane relief fund currently charges \$1.75 per \$1,000 as its rate for hurricane coverage. Once a source of funding is obtained to address the Hawaii hurricane relief fund's share of the liability, the legislature believes that the current rate per thousand dollars will be stabilized. The rate will be reduced after \$500,000,000 is accumulated by way of premiums from policies of hurricane property insurance, the special mortgage



recording fee, the 3.75 per cent annual assessment on insurance companies' property and casualty premiums, and any interest thereon. The stability of premiums, however, will be contingent on the valuation of each individual property.

The legislature finds that there are several possible sources of funding to address the \$500,000,000 in liability taken on by the Hawaii hurricane relief fund:

- (1) State revenue bonds;
- (2) Loan commitments from the federal government or any agency of the federal government, including federal disaster relief agencies;
- (3) Loan commitments such as lines-of-credit or standby bank facilities from financial institutions or other private sources; and
- (4) Any combination of the above.

Commitments from any of the above sources shall be reduced by the amount of accumulated premiums from policies of hurricane property insurance, the special mortgage recording fee, the 3.75 per cent annual assessment of insurance companies' property and casualty premiums, and any interest earned thereon.

Loan commitments from the federal government or any of its agencies will be drawn only in the event of a hurricane. Funds may not be requested unless projected losses are in excess of the policyholder deductibles, plus the liability borne by insurance companies. If moneys are drawn in the event of a hurricane, they will be repaid in accordance with any loan commitment agreements.

The maintenance of the accumulated funds, deposited with financial institutions in this State, will result in more funds in the local economy to stimulate investment and economic growth.

The purpose of this Act is to establish a means to stabilize and ultimately reduce homeowners' insurance costs by authorizing the director of finance to secure necessary funds to satisfy the share of liability currently reinsured by the Hawaii hurricane relief fund.

SECTION 2. Chapter 431P, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§431P- Accumulation of \$500,000,000 in funds and commitments.**

(a) Upon written confirmation from the insurance commissioner that the director of finance has secured \$500,000,000, in the aggregate, in the form of:

- (1) Commitments from either the federal government or an agency of the federal government or a financial institution;
- (2) Revenue bonds; or
- (3) A combination of the commitments or bonds;

the Hawaii hurricane relief fund shall:

- (1) Control or freeze rates; and
- (2) Begin accumulating premiums from policies of hurricane property insurance, the special mortgage recording fee, the 3.75 per cent annual assessment on insurance companies' property and casualty premiums, and the interest thereon, net of any required reinsurance payments, operating expenses and funds necessary for the development of a comprehensive loss reduction plan.

(b) When the balance of the net moneys accumulated totals \$500,000,000, the Hawaii hurricane relief fund shall notify the insurance commissioner of that fact. The insurance commissioner, in turn, shall order, following the receipt of the notice, a reduction in the rates for policies of hurricane property insurance.

(c) In the event of a loss from a covered event, the net moneys accumulated shall be used to reduce the commitments and bonds described under subsection (a). The commitments, plus bonds, plus the net moneys accumulated shall be used to settle claims in the event of a covered event in an amount not exceeding

\$500,000,000 in the aggregate, per covered event. The net accumulated moneys, commitments, and bonds shall be used only in the event losses from a covered event exceed the assessment pursuant to section 431P-5(b)(8)(B).

(d) In the event the balance of the net accumulated moneys falls below \$400,000,000, the Hawaii hurricane relief fund shall establish rates, subject to the approval of the insurance commissioner, necessary to replenish the account balance to \$500,000,000. The director of finance shall arrange for additional commitments whenever the account balance falls below \$400,000,000.

(e) The Hawaii hurricane relief fund shall be exempt from paying all taxes and fees levied by the State on other insurers.”

SECTION 3. Section 10, Act 339, Session Laws of Hawaii 1993, is amended by amending subsection (b) to read as follows:

“(b) The department of budget and finance, with the approval of the governor, is authorized to issue in the name of the department revenue bonds at such times and in such amount or amounts not to exceed [\$200,000,000] \$500,000,000 in aggregate principal as may be requested and deemed necessary by the commissioner for the purposes of the Hawaii hurricane relief fund. All such bonds shall be issued pursuant to part III of chapter 39, except as provided in this section.”

SECTION 4. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1995.

(Approved August 1, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 33**

S.B. NO. 9-S

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds for Medical Waste Facility Project Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to encourage the development of facilities for the safe and proper incineration and disposal of medical waste that will be available to members of the public, including hospitals, medical clinics, and laboratories and other health care providers serving the public. The legislature further finds that Pacific Controls, Inc., a Hawaii corporation, is engaged in the development of a medical waste incineration and disposal facility on Oahu for the safe and proper incineration and disposal of medical waste and thereby serves the public.

The legislature further finds that Pacific Controls, Inc., may be assisted through the issuance of special purpose revenue bonds because it is an industrial enterprise pursuant to part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The legislature finds and determines that the activity and facility of Pacific Controls, Inc., constitute an industrial enterprise as defined in part V, chapter 39A, Hawaii Revised Statutes. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$6,000,000, for the express purpose of assisting Pacific Controls, Inc., in the establishment of a medical waste incineration and disposal facility in the Campbell Industrial Park, including relocation costs with respect to the Waipahu site, provided that:

- (1) Prior to the issuance of any permit for the medical waste incinerator, an informational briefing shall be held to inform the citizenry of all aspects of the facility's operations;
- (2) That informational briefing shall be followed by a public hearing to garner as much additional input as possible;
- (3) The department of health shall cite the language embodied in this legislation within the body of any permits issued for the medical waste incinerator, so that the legislature's conditions and limitations are not separated from the permit or permits, and shall, in addition, ensure that those conditions and limitations set forth by the legislature extend throughout the life of the facility;
- (4) Pacific Controls, Inc., may incinerate foreign waste. For the purposes of this Act, "foreign waste" is defined as that which is produced by a vessel or aircraft in transit to Hawaii from a foreign port; it does not include solid waste carried as cargo from a foreign port;
- (5) Pacific Controls, Inc., or any subsequent owner of the facility, may not incinerate either specialty waste or hazardous waste; and
- (6) This facility shall be available to members of the public, including hospitals, medical clinics, and laboratories and other health care providers serving the public.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the authority to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on December 31, 1997.

SECTION 5. This Act shall take effect upon its approval.

(Approved August 1, 1995.)

## ACT 34

H.B. NO. 17-S

A Bill for an Act Making an Appropriation for Housing the Homeless.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many chronically-homeless persons who also are mentally-ill are difficult to reach through traditional services. Often, they are deeply suspicious of government motives, and reluctant to participate in programs that require extensive counseling or a case plan. It is essential, however, that these people be reached, provided shelter, and eventually brought into a trusting relationship that may enable future counseling and treatment.

The purpose of this Act is to appropriate funds for operating costs, including clerical staff, for a “safe haven” pilot project that provides essential services, including clinical staff, to the homeless mentally-ill without imposing strict program requirements. The long-term goal of the “safe haven” project is to establish a relationship with the homeless clients that will lead to their acceptance of counseling and treatment.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$30,000, or so much thereof as may be necessary for fiscal year 1996–1997, to provide operating funds for the “safe haven” pilot project for homeless, mentally-ill persons, including the hiring of necessary staff.

SECTION 3. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1995.

(Became law on August 15, 1995, without the Governor’s signature, pursuant to Art. III, §16, State Const.)

**COMMITTEE REPORTS  
ON MEASURES ENACTED**

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**TABLES SHOWING EFFECT  
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**GENERAL INDEX**

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| HB2237          | 37             | 1269                                       | 668                                       |  |
| HB2275          | 38             | 1262                                       | 399, 830                                  |  |
| HB2324          | 216            | 973, 1215                                  | 393, 682                                  |  |
| HB2352          | 115            | 999  | 95, 842                                   |  |
| SB1             | 1              | 1  | 1   |  |
| SB15            | 235            | 2  | 1592                                      | 52   |
| SB75            | 18             | 3  | 1086, 1512                                |  |
| SB84            | 203            | 654  | 1579                                      | 79   |
| SB87            | 156            | 153  | 1004                                      | 60   |
| SB158           | 236            | 510  | 1580                                      | 61   |
| SB159           | 157            | 511  | 1563                                      | 62   |
| SB161           | 16             | 203, 684                                   | 1039, 1514                                |  |
| SB171           | 242            | 627  | 1584                                      | 81   |
| SB287           | 139            | 10, 737                                    | 1087, 1529                                | 74   |
| SB288           | 186            | 513  | 1184, 1626                                | 63   |
| SB304           | 219            | 346  | 1048                                      | 124  |
| SB305           | 93             | 347  | 1049                                      |  |
| SB334           | 64             | 472  | 1581                                      |  |
| SB336           | 204            | 291, 749                                   | 1214, 1634                                | 89   |
| SB337           | 94             | 473  | 1564                                      |  |
| SB385           | 195            | 70, 515                                    | 1003, 1627                                | 71   |
| SB396           | 237            | 197, 802                                   | 1213, 1646                                | 87   |
| SB424           | 158            | 309, 474                                   | 1005, 1635                                | 54   |
| SB431           | 159            | 655  | 1565                                      | 77   |
| SB432           | 205            | 171, 750                                   | 982, 1220, 1503                           | 92   |



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| SB443           | 160            | 363, 752                                   | 1221, 1504                                | 80   |
| SB487           | 238            | 259, 657                                   | 1575                                      | 128  |
| SB500           | 146            | 549  | 1588                                      | 53   |
| SB550           | 210            | 319, 697                                   | 975, 1185, 1660                           | 130  |
| SB593           | 147            | 250, 544                                   | 1088, 1662                                |  |
| SB634           | 19             | 54, 387, 685                               | 996, 1516                                 |  |
| SB639           | 187            | 119, 507                                   | 1593                                      |  |
| SB647           | 148            | 49, 568                                    | 1006, 1628                                |  |
| SB722           | 116            | 516  | 1566                                      |  |
| SB807           | 206            | 634  | 1591                                      | 58   |
| SB869           | 117            | 479  | 1170, 1648                                | 64   |
| SB872           | 60             | 520  | 1596                                      |  |
| SB873           | 118            | 521  | 1597                                      |  |
| SB888           | 5              | 4  | 971                                       |  |
| SB889           | 149            | 85, 796                                    | 1073, 1146, 1638                          | 65   |
| SB893           | 95             | 181  | 970, 1273                                 |  |
| SB927           | 39             | 635  | 1573                                      |  |
| SB928           | 17             | 306, 803                                   | 1021, 1517                                |  |
| SB937           | 161            | 389, 687                                   | 1041, 1667                                | 98   |
| SB944           | 119            | 660  | 1586                                      | 131  |
| SB995           | 188            | 466  | 1075, 1621                                | 55   |
| SB1022          | 127            | 240, 723                                   | 1193, 1616                                | 83   |
| SB1028          | 207            | 395, 724                                   | 1067, 1507                                | 84   |
| SB1155          | 15             | 25, 546                                    | 1323                                      |  |
| SB1200          | 140            | 548  | 1066                                      |  |
| SB1204          | 162            | 98, 624                                    | 1126, 1935                                |  |
| SB1218          | 208            | 567  | 1092, 1669                                |  |
| SB1245          | 96             | 313, 727                                   | 1098, 1508                                |  |
| SB1254          | 141            | 527  | 1568                                      | 66   |
| SB1262          | 59             | 669  | 1034, 1644                                |  |
| SB1286          | 239            | 449, 662                                   | 1569                                      | 78   |
| SB1298          | 240            | 246, 621                                   | 987, 1151, 1652                           | 100  |
| SB1367          | 241            | 261, 599                                   | 1595                                      |  |
| SB1375          | 243            | 172, 760                                   | 1577                                      |  |
| SB1381          | 40             | 262, 562                                   | 1537                                      |  |
| SB1433          | 62             | 464  | 980, 1609                                 |  |
| SB1461          | 189            | 375, 729                                   | 1233, 1672                                | 86   |
| SB1467          | 163            | 274, 691                                   | 998, 1520                                 | 99   |
| SB1484          | 65             | 67, 711                                    | 1232, 1521                                |  |
| SB1509          | 63             | 89, 788                                    | 1169, 1665                                |  |
| SB1521          | 190            | 380, 563                                   | 1582                                      | 73   |
| SB1559          | 164            | 107, 791                                   | 1010, 1226, 1509                          | 134  |
| SB1560          | 142            | 108, 530                                   | 1558                                      | 67   |
| SB1566          | 7              | 348  | 1053                                      |  |
| SB1567          | 97             | 349  | 1052                                      |  |
| SB1568          | 120            | 307, 532                                   | 1227, 1661                                | 68   |
| SB1573          | 66             | 297, 765                                   | 1257                                      |  |
| SB1575          | 67             | 350  | 1051                                      |  |
| SB1577          | 121            | 351  | 1275                                      | 57   |
| SB1578          | 14             | 352  | 1274                                      |  |
| SB1593          | 122            | 163, 533                                   | 1933                                      |  |
| SB1594          | 9              | 174, 382                                   | 685, 1254                                 |  |
| SB1596          | 2              | 118, 383                                   | 967                                       |  |
| SB1626          | 209            | 128, 693                                   | 1042, 1670                                | 126  |

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| SB1627          | 68             | 145, 694                                   | 1043, 1617                                |  |
| SB1638          | 22             | 482  | 1538                                      |  |
| SB1642          | 165            | 420, 536                                   | 1090, 1632                                | 69   |
| SB1645          | 69             | 177  | 1594                                      |  |
| SB1670          | 143            | 212, 733                                   | 981, 1082, 1654                           |  |
| SB1674          | 211            | 381, 734                                   | 1002, 1642                                | 97   |
| SB1680          | 10             | 182, 384                                   | 966, 1255                                 |  |
| SB1682          | 3              | 63, 385                                    | 683, 968                                  |  |
| SB1683          | 166            | 80, 712                                    | 1171, 1523                                | 90   |
| SB1688          | 70             | 68, 716                                    | 1100, 1524                                |  |
| SB1690          | 4              | 64, 386                                    | 684, 969                                  |  |
| SB1692          | 8              | 465  | 1033                                      |  |
| SB1695          | 71             | 362, 773                                   | 1234, 1510                                |  |
| SB1712          | 61             | 265, 601                                   | 1022, 1619                                |  |
| SB1732          | 144            | 503  | 1559                                      |  |
| SB1743          | 123            | 646  | 1194, 1622                                |  |
| SB1746          | 124            | 506  | 1124, 1613                                |  |
| SB1747          | 41             | 469  | 1546                                      |  |
| SB1748          | 42             | 470  | 1079, 1614                                |  |
| SB1749          | 167            | 331, 589                                   | 1093, 1535                                |  |
| SB1751          | 196            | 332, 590                                   | 1024, 1525                                | 91   |
| SB1753          | 23             | 268, 538                                   | 1557                                      |  |
| SB1766          | 72             | 539  | 1188, 1625                                |  |
| SB1770          | 191            | 32   | 1934                                      |  |
| SB1771          | 125            | 115  | 1570                                      |  |
| SB1774          | 73             | 304, 776                                   | 1216, 1526                                |  |
| SB1778          | 212            | 484  | 1583                                      |  |
| SB1804          | 145            | 457, 672                                   | 1167, 1668                                | 138  |
| SB1806          | 126            | 329, 676                                   | 1598                                      |  |
| SB1868          | 168            | 487  | 1072, 1501                                | 51   |
| SB1905          | 150            | 60, 741                                    | 978, 1657                                 | 75   |
| SB1912          | 43             | 345  | 1574                                      |  |

### **Constitutional Amendment**

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### **Special Session of 1995**

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| HB 1-S      | Sp 6  | 16-S | 1-S  |
| HB 2-S      | Sp 7  | 17-S | 2-S  |
| HB 3-S      | Sp 8  | 18-S | 3-S  |
| HB 4-S      | Sp 32 | 19-S | 4-S  |
| HB 5-S      | Sp 9  | 20-S | 5-S  |
| HB 6-S SD1  | Sp 10 | 21-S | 6-S  |
| HB 7-S      | Sp 11 | 22-S | 7-S  |
| HB 8-S      | Sp 12 | 23-S | 8-S  |
| HB 9-S      | Sp 13 | 24-S | 9-S  |
| HB 10-S     | Sp 14 | 25-S | 10-S |
| HB 11-S SD1 | Sp 15 | 26-S | 11-S |
| HB 12-S     | Sp 16 | 27-S | 12-S |
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| HB 17-S         | Sp 34          | 32-S                                       | 17-S                                      |  |
| HB 18-S         | Sp 21          | 33-S                                       | 18-S                                      |  |
| HB 19-S         | Sp 22          | 34-S                                       | 19-S                                      |  |
| HB 20-S SD1     | Sp 23          | 35-S                                       | 20-S                                      |  |
| SB 1-S          | Sp 24          | 1-S  | 22-S                                      |  |
| SB 2-S          | Sp 25          | 2-S  | 23-S                                      |  |
| SB 3-S          | Sp 26          | 3-S  | 24-S                                      |  |
| SB 4-S HD1      | Sp 28          | 4-S  | 21-S                                      |  |
| SB 5-S          | Sp 31          | 5-S  | 25-S                                      |  |
| SB 6-S          | Sp 29          | 6-S  | 26-S                                      |  |
| SB 7-S          | Sp 27          | 7-S  | 27-S                                      |  |
| SB 9-S          | Sp 33          | 9-S  | 29-S                                      |  |
| SB 10-S         | Sp 1           | 10-S                                       | 30-S                                      |  |
| SB 11-S         | Sp 30          | 11-S                                       | 31-S                                      |  |
| SB 12-S         | Sp 2           | 12-S                                       | 32-S                                      |  |
| SB 13-S         | Sp 3           | 13-S                                       | 33-S                                      |  |
| SB 14-S         | Sp 4           | 14-S                                       | 34-S                                      |  |
| SB 15-S         | Sp 5           | 15-S                                       | 35-S                                      |  |

# TABLES SHOWING EFFECT OF ACTS

## Eighteenth State Legislature 1995 Regular Session and Special Session

Key: Am = Amended — = Section number to  
N = New be assigned in HRS  
R = Repealed Supplement  
Sp = Special Session

### A. SECTIONS OF HAWAII REVISED STATUTES AFFECTED

| Section No.              | Effect | Act No. | Section No.               | Effect | Act No. |
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| <b>VOLUME 1</b>          |        |         | 37-74                     | Am     | 11      |
| 6E-5.5, 8, 42            | Am     | 187     |                           |        | 11      |
| 11-____ (4 secs)         | N      | Sp 10   | 39A-52                    | Am     | 127     |
| 11-____ (4 secs)         | N      | Sp 27   | 40-35.5                   | Am     | 97      |
| 11-1, 2                  | Am     | Sp 27   | 40-88                     | Am     | 175     |
| 11-5                     | Am     | 71      | 42D-1                     | Am     | 118     |
|                          |        | Sp 27   |                           |        |         |
| 11-72, 76                | Am     | 71      | <b>VOLUME 2</b>           |        |         |
| 11-191                   | Am     | Sp 10   |                           |        |         |
|                          |        | Sp 27   |                           |        |         |
| 11-192                   | Am     | Sp 10   | 46-1.5                    | Am     | 236     |
| 11-193                   | Am     | Sp 10   | 46-16                     | Am     | 173     |
|                          |        | Sp 27   | 46-16.5                   | Am     | 98      |
| 11-194                   | Am     | Sp 27   | 76-16                     | Am     | 145     |
| 11-195                   | Am     | Sp 10   |                           |        | 162     |
|                          |        | Sp 27   | 84-15                     | Am     | 178     |
| 11-196, 198, 200, 203 to | Am     | Sp 10   | 84-17                     | Am     | 49      |
| 205, 208, 209, 212 to    |        |         |                           |        | 230     |
| 215                      |        |         | 84-18                     | Am     | 239     |
| 11-216                   | Am     | Sp 10   | 84-21                     | Am     | 228     |
|                          |        | Sp 27   | 84-31, 32                 | Am     | 220     |
| 11-217, 218, 219, 221 to | Am     | Sp 10   |                           |        | 221     |
| 223, 227 to 229          |        |         | 87-____                   | N      | 217     |
| 12-8                     | Am     | Sp 27   | 87-3                      | Am     | 183     |
| 26-1                     | Am     | 151     | 87-4.5, 6                 | Am     | 217     |
|                          |        | Sp 27   | 87-24                     | Am     | 136     |
| 26-6, 8                  | Am     | 126     | 89-11                     | Am     | 202     |
| 26-9                     | Am     | 198     |                           |        | 208     |
| 26-13                    | Am     | 189     | 92-____                   | N      | 212     |
| 26-14.6                  | Am     | 58      | 92-7                      | Am     | 13      |
| 26-16                    | Am     | 69      | 92-28                     | Am     | 95      |
| 26-19                    | Am     | 25      | 92F-14                    | Am     | 242     |
| 27-11                    | Am     | 210     | 97-____                   | N      | 220     |
| 28-____                  | N      | Sp 15   | 97-1, 3, 6, 7             | Am     | 220     |
| 28-____                  | N      | 178     | 101-12, 35 to 38          | Am     | 155     |
| 28-8                     | Am     | 73      | 103D-____                 | N      | 199     |
| 29-____                  | N      | Sp 11   | 103D-102                  | Am     | 16      |
| 36-21                    | Am     | 109     |                           |        | 178     |
| 36-27, 30                | Am     | Sp 11   | 103D-105                  | Am     | 178     |
|                          |        | 161     | 103D-204                  | Am     | 178     |
|                          |        | 211     |                           |        | 211     |
| 36-31                    | Am     | Sp 15   | 103D-209                  | Am     | 178     |
| 37-____ (4 secs)         | N      | Sp 15   | 103D-214                  | R      | 178     |
| 37-34, 35 to 37          | Am     | 11      | 103D-302 to 306, 309, 321 | Am     | 178     |
| 37-40                    | Am     | Sp 11   | C 104, pt I (heading)     | N      | 181     |
| 37-41.5                  | Am     | Sp 9    | 104-1                     | Am     | 181     |
| 37-53                    | Am     | 211     | 104-5                     | Am/R   | 181     |
|                          |        |         | 104-6 to 11               | R      | 181     |

| Section No.                 | Effect | Act No. | Section No.            | Effect | Act No. |
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| 104-21 to 34, pt II         | N      | 181     | 205A-41                | Am     | 11      |
| 107-11                      | Am     | 29      |                        |        | 69      |
| 109-2, 3                    | Am     | 149     | 205A-42                | Am     | 102     |
|                             |        |         | 205A-43.6              | Am     | 11      |
|                             |        |         |                        |        | 69      |
| <b>VOLUME 3</b>             |        |         | 206E-____              | N      | Sp 11   |
|                             |        |         | 209E-2, 4, 5           | Am     | 91      |
| 121-____                    | N      | 233     | 209E-6                 | R      | 91      |
| 134-2                       | Am     | 11      | 209E-9                 | Am     | 91      |
| 134-7                       | Am     | 189     | 210-____               | N      | Sp 2    |
| 141-1                       | Am     | 80      | C 211                  | R      | 82      |
| 142-98                      | Am     | 75      | 212-8, 9               | Am     | 81      |
| 147-____                    | N      | Sp 8    | 219-____               | N      | 76      |
| 147-7, 10, 58               | Am     | Sp 8    | 219-4                  | Am     | 11      |
| 148-51, pt IV               | R      | 32      | 219-5                  | Am     | 76      |
| 150A-2                      | Am     | 193     | 219-7                  | Am     | 79      |
| 155-5                       | Am     | 79      | 220-1                  | Am     | 11      |
| 155-13                      | Am     | 78      |                        |        | 69      |
| 155-14                      | Am     | 11      | C 228                  | R      | 104     |
| 155-15                      | R      | 77      | 231-____               | N      | 14      |
| 159-3, 7                    | Am     | 90      | 231-____ (2 secs)      | N      | 92      |
| 161-3, 7                    | Am     | 89      | 231-____               | N      | 121     |
| 167-____                    | N      | 139     | 231-1                  | Am     | 66      |
| 167-7, 11, 19, 22           | Am     | 139     |                        |        | 121     |
| 171-____                    | N      | 30      | 231-3, 3.5, 6          | Am     | 66      |
| 171-58.5                    | Am     | 11      | 231-12                 | R      | 92      |
|                             |        | 69      |                        | Am     | 66      |
| 183-42, 44                  | Am     | 11      | 231-15.6, 15.7, 23, 29 | Am     | 66      |
|                             |        | 69      | C 231 (pt heading)     | Am     | 92      |
| 183-45                      | Am     | 11      | 231-34 to 36           | Am     | 92      |
| 183C-6                      | Am     | 177     | 231-38                 | R      | 92      |
| 183D-____                   | N      | 186     | 235-2.3                | Am     | 7       |
| 183D-34                     | Am     | 135     | 235-7                  | Am     | Sp 10   |
| 187A-____                   | N      | 111     | 235-55.8               | Am     | 134     |
| 188-____                    | N      | 186     | 235-55.9               | Am     | Sp 23   |
| 188-68                      | Am     | 11      |                        | R      | 134     |
|                             |        | 69      | 235-61                 | Am     | 92      |
| 190D-11                     | Am     | 11      | 235-65                 | R      | 92      |
|                             |        | 69      | 235-68, 95             | Am     | 92      |
| 195F-2                      | Am     | 11      | 235-97                 | Am     | 67      |
|                             |        | 69      | 235-98, 105            | Am     | 92      |
| 200-____                    | N      | 86      | 235-106                | R      | 92      |
| 200-____ (16 secs, pt ____) | N      | 165     | 236D-14                | R      | 92      |
| 200-9                       | Am     | 86      | 237-9                  | Am     | 92      |
| 200-23                      | Am     | 140     | 237-23                 | Am     | Sp 20   |
|                             |        | 165     | 237-24.7               | Am     | 11      |
| 200-37                      | Am     | 140     |                        |        | 71      |
|                             |        |         |                        |        | 133     |
| <b>VOLUME 4</b>             |        |         | 237-41                 | Am     | 92      |
|                             |        |         | 237-43                 | Am     | 92      |
|                             |        |         |                        |        | 120     |
| 201E-____                   | N      | 132     | 237-48                 | R      | 92      |
| 201E-____                   | N      | Sp 11   | 237D-12                | Am     | 92      |
| 201E-2                      | Am     | 194     | 237D-17                | R      | 92      |
| 201E-30                     | Am     | 210     | 238-12                 | R      | 92      |
| 201E-222                    | Am     | 132     | 241-4                  | Am     | 85      |
| 205-2                       | Am     | 69      | 243-15                 | R      | 92      |
| 205-4                       | Am     | 235     | 244D-16                | Am     | 92      |
| 205-5.1                     | Am     | 69      | 245-2                  | Am     | 92      |
| 205-5.2, 15                 | Am     | 11      | 245-14                 | R      | 92      |
|                             |        | 69      | 247-6                  | Am     | 92      |
| 205A-____ (4 secs, pt ____) | N      | 104     | 247-11, 12             | R      | 92      |
| 205A-____                   | N      | 104     | 249-3, 3.5, 5          | R      | 164     |
| 205A-1 to 3                 | Am     | 104     | 249-10                 | Am     | 164     |
|                             |        |         | 251-11                 | Am     | 92      |
|                             |        |         | 251-16                 | R      | 92      |



[illegible]

| Section No.      | Effect | Act No. | Section No.           | Effect | Act No. |
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| 502-48           | Am     | 141     | <b>VOLUME 11</b>      |        |         |
| 508D-—           | N      | 108     | 604-5                 | Am     | 94      |
| 508D-3           | Am     | 172     | 607-25                | Am     | 69      |
| 508D-13          | Am     | 108     | 622-—                 | N      | 190     |
| 514A-83.2, 83.3  | Am     | 185     | 622-51                | Am     | 190     |
| 514A-83.6        | Am     | 28      | 663-8.7, 10.9         | Am     | 130     |
| 514A-96          | Am     | 185     | 671-—                 | N      | 213     |
| 514A-121         | Am     | 11      | 671-11, 19            | Am     | 213     |
| 521-7            | Am     | 43      | 673-10                | Am     | Sp 14   |
| 521-64           | Am     | 42      | 674-—                 | N      | Sp 14   |
| 521-71           | Am     | 41      | 674-2, 19             | Am     | Sp 14   |
| 560:3-1201       | Am     | 31      | <b>VOLUME 12</b>      |        |         |
| 560:5-312D       | R      | 189     | 701-108               | Am     | 171     |
| 571-50           | Am     | 189     | 706-—                 | N      | Sp 25   |
| 571-52.2         | Am     | 125     | 706-—                 | N      | 205     |
| 571-74, 84       | Am     | 100     | 706-605               | Am     | 215     |
| 572-5            | Am     | 153     | 706-606.3, 621, 623   | Am     | 157     |
| 572-7            | R      | 153     | 707-—                 | N      | 160     |
| 574-5            | Am     | 152     | 708-8120, 8121, pt XI | R      | 119     |
| 576D-6, 10.5, 11 | Am     | 137     | 709-906               | Am     | 116     |
| 576E-8, 12       | Am     | 191     | 711-—                 | N      | 159     |
| 576E-16          | Am     | 125     | 806-73                | Am     | 224     |
| 576E-16.5        | Am     | 191     | 846-—                 | N      | Sp 7    |
| 577-—            | N      | 227     | 846-2.5               | Am     | 100     |
| 578-8            | Am     | 37      | 846-10.5              | Am     | Sp 7    |
| 580-47           | Am     | 107     |                       |        |         |
| 584-4            | Am     | 106     |                       |        |         |
| 584-15           | Am     | 107     |                       |        |         |

## B. SESSION LAWS OF HAWAII AFFECTED

| S.L. No.         | Effect | Act No. | S.L. No.  | Effect | Act No. |
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| Laws 1979        |        |         | Act 214   | Am     | 174     |
| Act 50           | Am     | Sp 1    | Act 249   | Am     | 147     |
| Laws 1981 1st Sp |        |         | Act 299   | Am     | 218     |
| Act 13           | Am     | Sp 1    | Act 300   | Am     | 218     |
| Laws 1984        |        |         | Laws 1991 |        |         |
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§ = Section of Act 218

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